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A PRACTICAL TREATISE

—ON THE—

Business of Banking

—AND—

Commercial Credits

BY

J. B. DURYEA

LECTURER ON FINANCE, BANKING, COMMERCIAL LAW, AND MERCANTILE CREDITS, IN HIGHLAND PARK COLLEGE, DES MOINES, IOWA, AUTHOR OF "HOW TO DO BUSINESS WITH A BANK," "THE ART OF WRITING LETTERS," ETC.

FOURTH EDITION

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DES MOINES.

TO

HILL M. BELL,

PROFESSOR OF RHETORIC AND POLITICAL SCIENCE,

LINCOLN NORMAL UNIVERSITY,

WHOSE EMINENT AND HONORABLE SUCCESS AS A RHETORICIAN

HAS BEEN ATTAINED BY

INDOMITABLE ENERGY AND CONSPICUOUS ABILITY,

This Book is Dedicated,

AS A TOKEN OF THE AUTHOR'S REGARD FOR HIS FRIENDSHIP

AS WELL AS

FOR HIS INVALUABLE ASSISTANCE IN CRITICALLY READING THE

MANUSCRIPT OF THIS VOLUME.

108056

PREFACE.

The author of a book is expected to indulge in that system of literary apologetics known as preface writing. The necessity for this may sometimes exist, though quite often enough the utility is not apparent. Sometimes the apology is for the author's intrepidity in presenting his work to the public, or for his lack of ability to do the subject justice, sometimes it is for the imperfections of the work itself.

But books are judged by what they are and not by what they ought to be. No lame excuse can atone for a bad performance and no plea be necessary for a good one. I will not apologize for that perfection I do not and cannot possess, and will only add a few words by way of explanation.

For some years I have been of the opinion that the condition of the commercial world would be much improved if business men had a more comprehensive knowledge of the fundamental principles of banking and mercantile credits. The banker is the criterion of business men. His methods and mode of doing business exemplify the very best business principles. That a knowledge of these methods and principles of business will be of benefit to every business man is self-evident. Every man, no matter what his calling, should understand the business of banking. Such knowledge will not only enable him to obtain valuable assistance and many favors at the hands of his bankers, but the fundamental principles of business as here taught will enable him to carry his own affairs to a higher degree of perfection and profit. This book is as much for the merchant as for the banker.

In the part of this book devoted to credits the business man will find a guide that will enable him to trust out his goods to those who will pay for them. It will teach those not engaged in business to conduct themselves in such a manner as to merit the confidence and thereby the credit favors of the business community.

I have incorporated the principles of banking and credits in as few words as consistent with a proper and comprehensive elucidation of the subject-matter, and have aimed to produce a work that would be practical and useful. I have profited largely by the writings of others, and it is only justice that I hereby acknowledge my indebtedness to them.

In writing the portion devoted to banking I have received much aid from Albert S. Bolles' books, as follows: "Practical Banking," "Bank Officers, their Authority and Liabilities," "Banks and their Depositors" and "The National Bank Act." Much valuable aid has been obtained from "Methods and Machinery of Practical Banking," by Claudius B. Patten; "Practical Banking," by James W. Gilbart; "The Laws of Banks and Banking," by J. T. Morse, Jr.; "Banking Laws," by W. S. Paine; "The Elements of Banking," by H. D. McLeod; "Philosophy of Joint-Stock Banking," by G. M. Bell; "History of the Bank of England," by J. Francis; "Principles of Banking," by T. Hankey; "Currency and Banking," by B. Price; and "Theory of Money and Banks," by G. Tucker. Among a great number of other works that have been consulted, the following deserve mention in this place: "Money and Legal Tender," by H. R. Linderman; "History of American Currency," by Wm. G. Sumner; "Silver and Gold," by S. Dana Horton; "Law Manual for Notaries and Bankers," by W. B. Wedgwood and I. S. Homans; "Principles of Economic Philosophy," by Van Buren Denslow. Besides these I have received valuable aid from V. F. Newell, cashier of the Des Moines National Bank, Des Moines, Iowa, and many others to whom due credit is given in the footnotes.

In writing the part devoted to mercantile credits, I acknowledge aid received from "Whom to Trust," by P. R. Earling, "The Theory of Credit," by H. D. McLeod, and the works of John S. Mill, J. McCulloch, J. Cairus, and several others, on Political Economy. I am also indebted to the editor of "Bradstreets," for much valuable information regarding failures, mercantile agencies, etc. Besides these, the leading magazines, financial, banking and business papers and periodicals have been consulted, and I hereby acknowledge my indebtedness to them all.

I wish also to express my feeling of obligation to President O. H. Longwell, of Highland Park College, for the words of encouragement which he has given me during the year's work of preparing this volume, and for his many helpful suggestions.

The primary object of the topical analysis at the beginning of each chapter is for the student to refer to during recitations, when the book is used as a text book. I have purposely made these short so as to give the student a hint of the subject rather than to tell him the full contents of the topic.

The National Bank Act, given in Chapter III., is taken from the Revised Statutes of the United States. I have eliminated all technicality and have endeavored to give the thought in clear, simple language. This has been done to enable the student to comprehend it readily.

I hope that the work may prove useful and beneficial to many.

Des Moines, Iowa, J. B. DURYEA.
Nov. 1, 1892.

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*A complete topical index appears in the back part of this Book.

PART I.

THE BUSINESS OF BANKING.

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A PRACTICAL TREATISE

ON

THE BUSINESS OF BANKING.

CHAPTER I.

THE ORIGIN AND UTILITY OF BANKS.

§ 1. Definition.
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§ 1. **Definition.** A bank is an establishment having power to receive deposits, discount business paper, loan and remit money, pay checks and make collections. It may also deal in notes, foreign and domestic bills of exchange, coin, bullion, and credits. A bank is usually an incorporated institution.

If a man uses his own money to buy notes, or exchange, or if he borrows money from another to buy notes, etc., he is not, in a proper sense, a banker. To be a banker he must have a regular place of business where he receives the money of others on general deposit, and makes use of this joint fund for the purposes named.

In a practical sense, a bank is a place where deposits are received and paid out on checks; and money is loaned on security. If the Government gives it power to issue its own notes as money, it is called a "bank of issue."

§ 2. **Early Usage.** Originally banks were used only as places for the safe keeping of money, bullion, plates, or the like, which was left unused and unproductive in the vaults of the bank until the depositor should call for it. The Bank of Amsterdam was a notable instance of this class of banks. The coin or bullion was deposited and a receipt taken for its return. The depositors defrayed the expenses of the management, for which they received no return except the knowledge that their wealth was secure.

In modern times the demand for money, by borrowers, has become so great, and the chances of lending it safely, so numerous, that banks of the Amsterdam class no longer exist.

§ 3. **Origin of Modern Banking.** The origin of modern banking may be traced to the money dealers of Florence, who were in high favor as lenders of money and receivers of deposits, in the fourteenth century.

The business of banking now combines receiving with lending money—in fact, the banker lends out the greater portion of his deposits.

The advantages accruing to society, generally, from the business of banking is almost beyond estimate. The banker receives deposits, great and small, from private individuals, in whose coffers it is useless and unproductive, and lends it to those who can use it in their business but could not otherwise obtain it. Thus, money deposited with a banker becomes at once useful and productive, and the direct advantage arising from such transactions are considerable. Borrowing this money, the manufacturer may buy raw material and produce food and clothing and so give employment, and therefore the means of livelihood, to a multitude of individuals. In this way commodities reach the markets, are resold and soon

turned to some use, thus stimulating the production of other commodities.

Of course besides the money of others, a banker has his own money to lend. This is called his *capital.* Men would hesitate to deposit money with a man that possessed none of his own. If he makes bad debts he can use his capital to replace the deposits thus lost.

§ 4. **Origin of the Word Bank.** The Jews of Lombardy, Italy, are supposed to be the first to make a business of dealing in money, so that anciently the word *Lombard* was used to designate a banker or money lender. The Lombards had benches or tables upon which they exchanged money and bills. These benches were called *bancos*, and this word *banco* is supposed to be the original of the word bank. When a banker failed, his bench was broken by the people, and he was called a bankrupt (*banco*—bench or bank; *ruptere*—to break—a broken bench or bank). McLeod, in his "Principles of Economic Philosophy," says: "The true origin of *banco* is a heap, or mound, and this word was metaphorically applied to signify a common fund, or joint stock, formed by the contributions of a multitude of persons." This is probably the proper derivation of the word.

§ 5. **First Banks.** As might be expected, the date of the opening of banks and the first issuance of paper money seem to be coeval with that of the first coinage of money. The Chinese are said to have record of the issue of "flying money," or "convenient money," as early as 2697 B. C. One of these bank bills bearing the date of 1399 B. C., and having upon it the name of the bank, the number, the place of issue, the value, and the signature of the proper bank officials, is in the Asiatic Museum at St. Petersburg.

A Babylonian tablet of banking transactions of 601 B. C. is in the Metropolitan Museum of Art, at New York.

§ 6. **The Bank of Venice.** It is a remarkable fact that the first bank ever established had a success unequaled in

later times. The Bank of Venice was established in 1171 and was the earliest banking association of which there is any authentic account. The Republic being in a strained condition on account of the numerous wars being carried on, the reigning duke, in order to raise sufficient money to proceed with the crusade, compelled each citizen to contribute a hundredth part of his possessions to the state, for which he received four or five per cent. interest. This is the first appearance of a funded public debt. Some of the most opulent citizens formed themselves into a "Chamber of Loans" and thus began doing business with the state, mortgaging the public revenues to secure the interest, paying the interest, and transferring the stock. In exchange for their money, the people received certificates of stock which could be sold and transferred in whole or in part. The government finding that these transfers were in demand, kept reducing the interest until finally no interest at all was paid. Though termed a bank, its issues were really government paper, and its business was carried on solely for the benefit of the public treasury.* Thus the first bank or system of public debts was established through a forced loan, and it continued until 1797, when it fell with the city itself at the conquest of Napoleon.

§ 7. **The Bank of Genoa.** In 1407 the Bank of Genoa was formed under the title of the "Chamber of St. George." It owed its existence to conditions similar to those of the Bank of Venice, and was the first to issue circulating notes. They were, however, for large transactions and passed only by indorsement.

§ 8. **The Bank of Amsterdam.** This, the first bank organized for the promotion of commerce, was founded January 31, 1609. The commerce of Amsterdam became so varied that some regulations were badly needed, and the magistrates, under proper authority, declared themselves the perpetual

*Moulton's Science of Money, page 66.

cashiers of the populace, and decreed that all payments above 600 gilders, and all bills of exchange, should be made at the bank. Merchants were now compelled to open accounts with it; and the benefit to Holland was so great that bank money was soon at a premium.

§ 9. **The Bank of England.** The Bank of England was founded, by a charter granted by William and Mary, July 27, 1694, for a period of twelve years, terminable on a year's notice. The capital originally subscribed was £1,200,000 ($5,800,000) in consideration of loaning the government the amount at eight per cent. interest. This is now the strongest and most wealthy bank in the world. It was the first to issue notes payble to bearer on demand.

The bank of England influences commerce and credit over all the world. The bank building itself is a plain, unpretentious granite building of one story in height, and presenting a prison-like appearance, having no windows to the outside world. Inside it is a town of itself, made up of many buildings, courts and apartments, all of which are utilized in carrying on the different branches of the establishment. Underneath are the vaults, in which are stored the securities, gold and bullion. The staff, from highest to lowest, consists of about one thousand, and the system of business is so methodical, there seems to be a crowd nowhere, and no one ever in a hurry. Strangers visiting the bank are treated with the utmost courtesy, and if provided with an order, which is easily obtained, are shown over the principal parts.

It is really two banks in one, the note-issue department being entirely separated from that of the general business, and making its own distinct reports. The note issues are based on the government's indebtedness to the bank, and can be indefinitely extended by a pledge of an equal amount of gold and bullion lodged in the issue department. These notes are printed on the bank's premises upon paper manufactured by a secret process, and under the bank's direction.

They are issued in denominations of from £5 to £1,000. All transactions of less than £5 must be made in gold and silver. They are a legal tender for the payment of all debts other than the bank's own. The same note is never paid out a second time, but cancelled and replaced by a new one.

The banking department is based upon a capital of $80,000,000; is the depository of all government moneys, and the agent which transacts all its financial business.

It has no regular rate of interest, but as soon as exchanges run against the bank and more gold is demanded than comes in, the rate of interest is raised and this will be further added to until the tide of specie sets to the bank. This being accomplished, the bank becomes strong again and the rate is lowered. Whatever this rate may be, fixes also the rate for other banks, and becomes the adopted rate in private transactions. It has not always stemmed the tide of panic, and has had to succumb and suspend specie payments upon more than one occasion in its history, but being so directly identified with the government the latter has always protected it.

Its stock seldom changes hands, and its dividends average about eight per cent. for the last one hundred years.

The government pays it a stipulated sum for being the responsible agent for the transfer of consols and the payment of the interest thereon. The public debt of Great Britain is about three billion five hundred millions of dollars, and the bank receives for its work $150,000 for every five hundred millions up to three thousand millions and a lower rate for the remainder. From this alone its income in round numbers is $1,000,000 a year.

In its dealings with its competitors it has borne the reputation of being just, leaning to the side of generosity, and but one instance is recorded where it deliberately attempted another's ruin. Early in the eighteenth century there was a private banking house, Childs & Co., whose business became so large and prosperous as almost to rival the bank. The

bank set secretly to work to collect and hoard Childs & Co.'s obligations, until, having accumulated a large amount, they would present all at once and demand payment, thereby forcing them into insolvency. A few days before the expected event was to transpire, Childs & Co. were secretly advised by some friend. As quietly they sought the Duchess of Marlborough and acquainted her with the facts. The Duchess, sympathizing with Childs & Co., gave them her check on the Bank of England for $3,500,000. This check Childs & Co. laid away in their vaults and awaited developments. A few days later, the bank's messenger presented himself at Childs & Co.'s counter with three millions of their obligations and demanded the money. While one of Childs & Co.'s clerks was checking off the items, another was sent to the bank with the check of the Duchess. On the latter's return with the money, the messenger was handed his $3,000,000 in the bank's own notes, and a new account with the live Duchess opened on their books.

The bank is managed by a governor, deputy, and board of twenty-four directors, each of whom retires in turn and at stated intervals. These are selected from the first rank of business men, who have large interests at stake in the welfare of the country, and hence their administration, as a rule, has tended toward the good of all. While, on the one hand, the bank has always been the sheet anchor of the government, on the other, it has afforded the people a stable currency, and secured them a low rate of interest.

§ 10. **The Bank of North America.** Robert Morris, a distinguished financier and a representative of Pennsylvania in Congress, was the leader in the establishment of the Bank of North America, the first authorized bank in the United States. The credit of Congress and the State, from the fact that they had issued the bulk of the currency in bills of credit, was almost exhausted, this currency being so depreciated in value that it was almost impossible to procure the necessary

supplies for the support of the army. The soldiers became dissatisfied and it was feared the cause for which the people had fought would be abandoned. The aid furnished by this bank infused new vigor into the people and proved thereby a powerful auxiliary in establishing American independence.

On June 17, 1780, a meeting of citizens of Philadelphia was held to devise plans for raising money necessary for the support of the revolutionary army. A resolution was adopted to open a security subscription to the amount of $300,000, articles of incorporation were adopted, and at the close of 1781 the bank was established with a recommendation by Congress that the several States should grant charters to the organization.

§ 11. **The Bank of the United States.** The first Bank of the United States was founded by Alexander Hamilton and incorporated February 25, 1791, to continue twenty years. The capital was fixed at $10,000,000, $2,000,000 being contributed by the Government, to be refunded in ten equal installments. The notes of the bank were legal tender for all debts due to the United States. This bank was intended to be to the United States what the Bank of England is to England, but when the charter expired in 1811 it was not renewed.

On April 10, 1816, a Second Bank of the United States, with a capital of $35,000,000, was chartered, and when the charter expired in 1836, Congress refused to renew it. If a similar association were to be established now, bearing a like porportion to the wealth of the country, its capital would be over $600,000,000. The contemplation of such an enormous power, placed in the hands of any body of men gives us a just appreciation of the conduct of President Jackson in his attitude toward this bank. He realized that such an institution, growing with the growth of the nation, would surely tend to corruption, while its unlimited power might be directed to interfere with the independence of Congress and with the liberty of the people.[b]

[b] Blaine's Twenty Years in Congress. I., 418.

§ 12. **The Wild-cat Banks.** What were known as the "Wild-cat" banks were the old State Banks, organized under charter of the States, by private individuals. They were permitted to issue currency to the amount of their alleged capital. To be sure, they put up securities, but these were bonds of the State, cities, towns, private corporations, or even mortgages on real estate. Often the securities were worthless and in many cases the capital was paid in by promissory notes. This wholesale issue of currency soon drove specie out of the field. The bank notes began to fluctuate in value, and the banks issuing them were designated "wild-cat banks." At the outbreak of the rebellion in 1861 the greater part of them collapsed and the circulation of the rest of them was retired, and the national banking system was devised to take their place.

§ 13. **Utility of Banks.** A great deal more might be said about the early history of banks and banking, but what we have said will give the student a fair idea of the early beginnings. If he wishes to pursue the subject further, many books treating the matter fully can be obtained.

A bank's functions are:

1. A bank is useful as a place for the safe deposit of money. If individuals were in the habit of keeping large sums of money at their homes, robbery and burglary would multiply with amazing rapidity and few houses would be free from the invasions of outlaws.

Men have tried keeping money in about every conceivable manner. Every one has heard of the Iowa farmer who received his back pension of three thousand dollars in gold, and not being willing to trust the "blasted thieving banks" with it, concluded to put it in an oyster can and plant the can beneath a large white bull dog's kennel. He buried it nearly a foot under ground and moved the kennel over the grave. The dog was as savage as could be desired, and took to his new role with evident satisfaction. About six

months afterward the old man wanted some money and so concluded to draw on his original bank. He found the can, but, to his utter dismay, it contained nothing but dirt. Some one had relieved him of the gold.

A lady was, during the summer, in the habit of using a large heating stove as a bank. One cool morning in the fall her son struck a match to the waste paper which had been stuck in the stove, and thus burned all the money to ashes.

2. If money is deposited with a bank and lost, the bank is responsible whether negligent or not. Money deposited with a bank becomes the property of the bank, and is therefore a debt. A deposit is a loan to the bank, and if it is lost or stolen the bank is not relieved from the obligation.

3. One of the great benefits which banks render to the people is that of loaning money to those engaged in manufactures, commerce and business, and who could not carry on their enterprises without the use of outside capital. Commerce and trade would be inevitably crippled if no money could be borrowed.

4. By paying interest on deposits the owners of money acquire greater profit from their capital than if there were no banks. Capital that would otherwise lie idle and profitless, is deposited with banks and not only increases the gains of the owner but is loaned out, and while increasing the profits of the bank, also enables the borrower to carry his business to a much higher degree of perfection and profit.

5. Without the use of checks the large payments of the business world could not possibly be made. To stop to count the money out to the seller in many of the large transactions would entail such an enormous loss of valuable time that business would be seriously injured. Besides there is not enough money in the United States to do the business of a single one of our great cities. Men make their own money, millions of dollars every day, in the form of checks, and destroy it at night. By the intervention of

checks, large payments can be made without counting a dollar of money.

6. While some risk attends the use of checks, yet with money there is the danger of taking counterfeits, raised, light weight, split or otherwise imperfect coin. The danger of error is also materially lessened.

7. There are many instances where bills have been paid a second time because no proof or evidence of payment could be produced. Many people do not take receipts when payments are made, and if they do, often lose them, but when bills are paid by checks they are returned to the drawer and serve as a receipt. A receipt is evidence of payment, a cancelled check is positive proof of payment.

8. Probably the most important function of banks is their system of exchange. When money is sent from one place to another it entails heavy costs of transportation, besides the risk of loss by robbery or otherwise, and the loss of the use of the money during the process of transportation. But by the mediation of banks, the debt is transferred and the money kept in active circulation and all risks and expense of transmission avoided.

9. "Banking," says James W. Gilbart, an eminent English author,[c] "exercises a powerful influence upon the morals of society. It tends to produce honesty and punctuality in pecuniary engagements. Bankers, for their own interest, always have a regard to the moral character of the party with whom they deal; they inquire whether he be honest or tricky, industrious or idle, prudent or speculative, thrifty or prodigal, and they more readily make advances to a man of moderate property and good morals than to a man of large property but of inferior reputation. There are many instances of persons having risen from obscurity to wealth only by means of their moral character, and the confidence which that character produced in the mind of their banker. It is

[c] Gilbart on Practical Banking, pp. 7 and 8.

not merely by way of loan or discount that a banker serves such a person. He also speaks well of him to those persons who may make inquiries respecting him, and the banker's good opinion will be the means of procuring him a higher degree of credit with the parties with whom he trades. These effects are easily perceivable. It is thus that banks perform the functions of public conservators of the commercial virtues. From motives of private interest they encourage the industrious, the prudent, the punctual, and the honest; while they discountenance the spendthrift and the gambler, the liar and the knave. They hold out inducements to uprightness, which are not disregarded by even the most abandoned. There is many a man who would be deterred from dishonesty by the frown of a banker, though he might care but little for the admonition of a bishop."

§ 14. **Expenses, Profits, etc.** The disposable means of a bank is the money which the dealers deposit, the money paid in by the stockholders, the notes it can circulate and the money received during the course of transmission.

The expenses of a bank consist of rent, salaries, stationery, postage, taxes, interest, repairs, etc. The profits of a bank are that portion of its total gains from discount, interest, collection, exchange, commission, etc., which exceed its total expenses.

§ 15. **Kinds of Banks.** There are several kinds of banks, such as National, State, Savings, and Private banks, and Trust companies. A full discussion of each will be found further on.

CHAPTER II.

State and Private Banks and Bankers.

§ 16. National Banks.
17. State Banks.
18. Wild-cat and Red-dog Banks.
18*a*. Conversion at the outbreak of the rebellion.
19. Some alleged advantages.
§ 20. Number, Capital and Deposits.
21. Private Banks and Bankers.
22. Number, Capital, etc.
23. Their prestige.
24. Changes.
25. Details of management.

§ 16. **National Banks.** The National Banking System, which is treated at length, in this work, is the most perfect and the most satisfactory system of banking that this country has ever had. In fact, the wisdom of those who prepared the National Bank Act has been demonstrated by the unprecedented success of the banks organized under it. "No other system has ever issued notes circulating at par," says the Comptroller of the Currency, "over so wide an area of country, absolutely without loss to holders; nor has any other afforded such complete security to depositors and creditors."

As might be supposed, there are some objections offered to the national banks, but that they meet the necessity of the public and are in popular favor is shown by the constant increase in their number and capital as exhibited by the Comptroller's last report. By this report (1893) we find that 119 new banks were organized during the year, possessing an aggregate capital of $11,230,000. The number of national banks doing business October 31, 1893, was 3,796 with a total capital of $68 3,600,000

§ 17. **State Banks.** The old State Banks were organized under a special charter from the legislature of the State, the same as other corporations were formed. These banks were based on private capital but were authorized by the State.

Their charters usually specified the amount of proposed capital, but the shareholders often paid their stock by promissory notes, thus putting the banks in rather a precarious condition. They were organized by three, five, seven or more persons, and were required to put up securities to an amount equal to the proposed capital. These might consist of bonds of the State, or of cities, towns or other public corporations, and even private mortgages on real estate were considered sufficient; and on this dubious security they were permitted to issue their own notes which were to circulate as money. Some of these notes were for small amounts, and being issued so freely they soon drove specie out of the field, until but little was left, and that little was passed from one bank to another in order to present a more favorable showing when the inspector came. Many times the man with the specie traveled only a little in advance of the inspector.

§ 18. There was no way provided to redeem these state bank notes in coin. The security was so precarious that the currency soon began to fluctuate in value. The banks were designated "wild-cat banks." Another class of banks was called "red-dog banks" from their shifting propensities, being in one town to-day and probably setting up in a town fifty miles away to-morrow.

§ 18*a*. At the outbreak of the rebellion most of these banks were in bad repute and frauds and failures were frequent, causing business to suffer greatly. The need of better banking laws being obvious, Congress devised the National Banking System to supply the necessity. A great many of the state banks now collapsed, but the greater part were converted into national banks.

In 1866 Congress imposed a tax of ten per cent. on state bank notes, thus causing the entire state bank circulation to be retired, so that now the only banks which issue notes are those conforming to the National Bank Act, approved Feb. 25, 1863.

There are still many state banks organized under, and conforming to, the State law, and they are conducted in about the same manner as before the war, except that their circulation has been withdrawn. Much of the internal mechanism of banks, such as receiving deposits, making collections, loaning money, etc., is the same, or similar, in state and national banks; *i. e.*, they may be the same. One great point of difference between the two banks is that one issues circulating notes and the other does not. Of course the size of the city or town in which the bank is located will also make some difference; other differences in the mode of doing business may exist the same as in any other line of business.

§ 19. There are, according to some bankers, some points of advantage which state banks have over national banks, among which are these: they may certify checks in excess of the amount to the depositor's credit; they are not so critically examined, and are not generally required to make reports to the state officials. Some consider it an advantage to be able to use more freedom in their affairs. By organizing state banks they can do things which they would not be allowed to do under the National Banking System.

§ 20. **Number, Capital, etc.** According to the report of the Comptroller of the Currency, for 1893, the number of state banks, reporting to the Comptroller, is 3,579. These have a combined capital of $250,800,000, and individual deposits amounting to $707,000,000.

§ 21. **Private Banks and Bankers.** A private banker is one who carries on the business of banking as an individual, in the same way as individuals or partners engage in any other line of business. Many banks organized and running as state banks are in truth no more than private banks; the capital being owned by one or two individuals with only a nominal directorship. This is often resorted to in order to get the benefit of the prestige of the title "bank," and to secure the exemption from limited liability.

Private banks are most generally formed in towns or villages that are too small to support a national bank, but still feel the need of some banking facilities. We are led to this conclusion by the showing in the Comptroller's report. The greater part of the capital being in the west—Iowa leading with $5,400,000. In the thriving west, where enterprise and industry is the greater part of the capital of the people, the conditions are most favorable for the establishment and support of private banking institutions.

§ 22. **Number, Capital, etc.** The number of private banks is given by the Comptroller as being 848 and their combined capital, $26,800,000, and the amount of deposits is placed at $69 000,000. Private bankers are not always willing to give the public a statement of their business, and some absolutely refuse to give the Comptroller any information; so that the figures we have given are about 4,025 less than the number in existence. Iowa alone has 490.

§ 23. **Their Prestige.** The private banker must gain the public confidence by his wealth, character, honesty and trustworthiness. This, of course, brings greater personal restraint and greater responsibility to bear on the manager than is expected in a state or a national bank. They are, of course, not subject to examination by the State or Federal Government, but every dealer becomes an individual examiner of the banker's methods and ability.

§ 24. **Changes.** In a new community, a merchant or wealthy citizen begins by buying notes, or making small loans, and is finally carried or forced into a regular banking business. Thus it is that many of the large banks have begun. After running for some time as a private bank, many of them are converted into state or national banks. As the advantages of a country are developed, and the business interests improved, the greater part of these private institutions are thus changed.

§ 25. **Details of Management.** As in state banks, the methods of doing the regular business of banking do not, nec-

essarily, differ from those of national banks. It is generally supposed that the management of private banks is as satisfactory, to all concerned, as is the management of other banks.

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I. POWERS OF THE COMPTROLLER.

§ 26. **Banks Prohibited.** At the time of the war of the rebellion, owing largely to the frauds that had been practiced, banks were looked upon as gigantic engines of robbery, and so low had the principles of banking been dragged, that some of the states objected to their formation, and Michigan amended its constitution to prohibit them.

§ 27. Congress took hold of the matter and enacted the National Bank Act. This law has been amended several times. What we give of it in this work is taken from the Revised Statutes. Congress had several reasons for enacting a new system of banks. One was to prevent the many frauds that were perpetrated, and another was to remedy the unreliability of the state banks' circulation, which, owing to the lack of proper methods for its redemption, had sunk to its lowest ebb. Another reason was to enable the government to secure the loan of sufficient money to carry on the war. This could be accomplished by having banks buy United States bonds, and, by having them deposited with the Treasurer of the United States, it would also secure the redemption of the banks' circulation.

§ 28. **Bureau of National Currency.** One of the provisions of the National Bank Act is that there shall be, in the Department of the Treasury, a bureau charged with the execution of all laws passed by Congress regarding the regulation of the national currency secured by United States bonds. The chief officer of this bureau shall be called the Comptrol-

ler of the Currency, and he must submit himself to the general instructions of the Secretary of the Treasury.

§ 29. **Appointment.** The Comptroller of the Currency is appointed by the President, on the recommendation of the Secretary of the Treasury, and with the consent of the Senate. He holds office for five years unless, upon reasons communicated by the Senate, he be sooner removed by the President. His salary is five thousand dollars a year.

§ 30. **Oath and Bond.** Within fifteen days from the time of his appointment he must subscribe to the oath of office and give to the United States a bond, for the faithful performance of his duty, in the sum of one hundred thousand dollars. There is also a Deputy Comptroller, who has a salary of two thousand five hundred dollars. He must give a bond in the sum of fifty thousand dollars. The Comptroller may hire the necessary clerks who shall perform such duties as he may direct.

§ 31. **Interest in National Banks.** The Comptroller cannot lawfully be interested, in any way, in any association issuing national currency.

§ 32. **Seal.** The Comptroller is provided with a seal of office, devised by the Comptroller and approved by the Secretary of the Treasury. A description, with an impression of the seal, and a certificate of approval of the Secretary of the Treasury, must be filed with the Secretary of State.

§ 33. **Rooms.** The Secretary of the Treasury shall set apart rooms in the Treasury building suitable for the business of the Bureau of Currency, and shall provide safe and secure fire-proof vaults, in which the Comptroller shall deposit and keep all the plates not in the hands of the engravers or printer, and any other valuables belonging to the Department. The Comptroller must furnish suitable conveniences, such as furniture, stationery, etc., for the transaction of the business of his office.

§ 34. **Report.** The Comptroller is required to make a report to Congress once in each year, giving a summary of

the condition of every banking association from which reports have been received the preceding year. He must set forth the whole amount of capital returned by them; their total resources and liabilities; the amount of circulating notes outstanding; the amount of lawful money held by each, and any other information which he deems useful.

He recommends to the consideration of Congress any amendments to the banking laws which, in his opinion, would be of benefit to the business world. He makes suggestions regarding the clerks of his office, the bank examiners, and reviews the important functions of bank officers, and gives a digest of recent court decisions regarding banking.

He incorporates in his report a statement of all the resources and liabilities of all national banks in every city in the United States, and compares the aggregate resources and liabilities for the year with those of the preceding year.

II. ORGANIZATION, BEGINNING AND EXTENSION.

§ 35. **Number of Persons.** Not less than five natural persons may organize a national bank. They must draw up articles of association, specifying the object for which the association is organized, and any other provisions, not incompatible with law, which they may wish to adopt for the regulation and conduct of the affairs of their bank. These articles are signed and a copy sent to the Comptroller of the Currency.

§ 36. **Organization Certificate.** A certificate of organization shall be made which shall specify:

First. The name of the proposed association; which name shall be subject to the approval of the Comptroller of the Currency.

Second. The state, territory or district, and the county, city, town or village, where its operations of banking are to be carried on.

Third. The amount of capital and the number of shares.

Fourth. The name and residence of the shareholders, and the number of shares held by each.

Fifth. That the certificate is made to obtain the benefits of the National Bank Act.

§ 37. **Acknowledgment.** The certificate of organization must be acknowledged before a judge of some court of record, or a notary public; and shall be, together with the acknowledgment, sent to the Comptroller of the Currency.

§ 38. **Capital.** If the population of a place does not exceed six thousand, a national bank may, with the approval of the Secretary of the Treasury, be organized with a capital stock of not less than fifty thousand dollars. In towns with from six thousand to fifty thousand inhabitants, a national bank must have not less than one hundred thousand dollars; in cities with over fifty thousand inhabitants they must have not less than two hundred thousand dollars.

§ 39. **Shares.** The capital stock must be divided into shares of one hundred dollars each, and these are deemed personal property. The shares must be transferable on the books of the organization in such manner as the by-laws or articles of association may prescribe.

When a person becomes a shareholder by such transfer he succeeds to all the rights and liabilities of the prior holder of such share or shares.

§ 40. **Payment of Stock.** Before the bank shall be authorized to begin the business of banking it is necessary that at least fifty per cent. of the capital stock be paid in; and the remainder of the stock must be paid in installments of at least ten per cent. each of the whole capital stock. These installments must be paid as frequently as one installment a month until paid in full. A certificate of the payment of each installment, under oath of the president or cashier, must be made to the Comptroller.

§ 41. **Delinquent Shareholders.** If a shareholder fails to pay any installment on the stock, when required to do so, the directors, after giving notice for three weeks in a newspaper published in the town, or if none be published therein,

then in the one published nearest thereto, may sell, at public auction, such stock to the highest bidder, providing said bid be not less than the amount then due thereon, with the expense of advertisement, sale, etc. If there should be any excess, it is paid to the delinquent shareholder. If no bid, equal to the amount just mentioned, be offered, the amount previously paid shall be forfeited to the association, but the stock must either be sold, as the directors may order, within six months, or be cancelled and deducted from the capital stock of the organization. If any such cancellation should reduce the capital below that required by law, the capital stock shall, within thirty days, be increased to the required amount, or a receiver may be appointed to close up the business of the association.

§ 42. **Examination of Certificate.** After the certificate of organization has been transmitted to the Comptroller of the Currency and the association has notified him that at least fifty per cent. of the capital stock has been paid in, and that the association has complied with all the provisions of the National Bank Act required to be complied with before being authorized to begin the operations of banking, the Comptroller shall inquire into the condition of the proposed bank, ascertaining all the facts thereto, that he may decide whether the organization is lawfully entitled to begin the operations of banking.

§ 43. **Comptroller's Certificate.** If, after a careful examination of all the facts, whether by special commission appointed for the purpose, or inquiring into the conditions, or otherwise, it seems that the organization is entitled to the privileges of the law, the Comptroller shall send a certificate, under seal, authorizing the association to begin business.

The association must publish the certificate for at least sixty days in some newspaper.

§ 44. **Place of Business.** The usual business of each national banking association shall be transacted at an office,

or banking house, located in the place specified in its organization certificate.

§ 45. **Extension of Charter.** Congress gives the national banks, organized under the act known as the National Bank Act, the privilege of extending their charter for a period of twenty years after the expiration of their corporate existence under the present law; they must, however, make application for such extension any time within the two years next preceding the expiration of their old charter, and the change must be made by amending the articles of association.

§ 45*a*. Such amendment must be authorized by the consent in writing of shareholders owning at least two-thirds of the capital stock, and such consent must be certified to the Comptroller, under seal of the bank, together with a copy of the amended articles of association. After a careful examination, if the Comptroller is satisfied that all the required provisions have been complied with, there shall be issued a certificate under seal certifying that the association is authorized to continue business for the period mentioned in the articles of association.

§ 46. Any shareholder not consenting to the extension, and wishing to withdraw from the association, shall, within thirty days from the date of the Comptroller's certificate, give notice in writing to the directors of his desire to withdraw, and he shall be entitled to receive the value of the shares held by him. Such value shall be ascertained by appraisal by a committee of three persons. If the shareholder is not satisfied with the value so fixed he may appeal to the Comptroller, who shall order a re-appraisal, which shall be final. If the re-appraisal shall be less than the value fixed by the committee, the shareholder must pay the expenses of said re-appraisal, otherwise the bank must pay such expenses.

The shares surrendered under this section shall be sold at public auction according to the provisions of § 41 (q. v.).

§ 47. The law provides that in case of the extension of a national bank, the old notes issued by it shall be redeemed

and new ones issued in their stead, the bank paying the cost of preparing the plates for such new circulation.

§ 48. If a bank does not intend to extend its time after the expiration of its charter it must go into liquidation the same as if it went into voluntary liquidation.

III. DIRECTORS, DECLARING DIVIDENDS, AND POWERS OF NATIONAL BANKS.

§ 49. **Election of Directors.** The management of each national bank shall be intrusted to a board of not less than five directors, who shall be elected by the shareholders at any meeting held before the bank is authorized to begin business; and afterward at the regular meeting of shareholders to be held on such day of January of each year as the articles of association may specify. The directors hold office for one year or until their successors are elected and qualified.

Each shareholder is entitled to one vote for each share held by him, in election of directors and such other minor matters as may come up during the meeting. A shareholder may vote by proxy, but no clerk, bookkeeper or teller of the bank will be allowed to act as proxy, and no shareholder whose liabilities to the bank are past due and unpaid shall be permitted to vote.

§ 50. **Qualification.** Every director must be a citizen of the United States, and at least three-fourths of the directors must have resided for at least one year, immediately preceding their election, in the state or territory in which the bank is located, and must continue so to reside during their term in office.

Every director must own in his own right at least ten shares of the capital stock of the bank, and when he ceases to own said number of shares he shall vacate his place.

§ 51. **Oath.** Each director takes an oath that he will faithfully and diligently perform all his duties, that he will not violate or permit to be violated the National Bank Act,

that he is owner of the number of shares required and that they stand in his name and are not hypothecated or in any way pledged for debt. After this oath is subscribed to, it is sent to the Comptroller, who keeps it on file in his office.

§ 52. **President.** The directors appoint one of their number who shall be president of the board.

§ 53. **Vacancy.** Should a vacancy occur in the board of directors it shall be filled by appointment by the remainder of the directors, and such new director shall hold office until the next election.

If, for any reason, the directors are not elected at the appointed time, the old directors shall continue in office until others are elected; and an election may be held at any time after thirty days' notice shall have been given in a newspaper published in the place; if none be published in such place, then in the one published nearest thereto.

If the articles of association do not fix the day of election it shall be fixed by the by-laws, or if not so fixed, then the shareholders representing two-thirds of the stock may do so.

§ 54. **Declaring Dividends.** A semi-annual dividend, of as much of the profits as the directors may deem proper, may be declared; but before doing so they must carry at least ten per cent. of the previous six months' profits to the surplus fund, until such surplus shall equal twenty per cent. of the capital stock of the association.

§ 55. **Capital Not to be Withdrawn.** Banking associations are prohibited from withdrawing, in the form of dividends, any portion of their capital. If a net loss occurs no dividend shall be declared; and none shall ever be declared for an amount in excess of the bank's net profits after deducting all losses and bad debts.

Debts due the bank on which interest is past due and unpaid for a period of six months, unless the same is well secured and in process of collection, shall be considered bad debts.

Nothing herein shall be construed to prevent the reduction of capital as provided for in § 66.

§ 56. **Powers.** After receiving the Comptroller's certificate the organization shall become a body corporate, and in such capacity shall have power:

First. To use a corporate seal.

Second. To have succession for a period of twenty years, unless it be sooner dissolved by its articles of association, or by its shareholders, or by violation of law.

Third. To make contracts pertaining to the business of banking.

Fourth. To sue and be sued.

Fifth. To elect or appoint directors, and, by its board of directors, to appoint a cashier, a president, a vice-president and other officers, and to define their duties and require bonds of them. The board is vested with power to dismiss any officer at pleasure and appoint another to fill his place.

Sixth. To exercise, by its board of directors or authorized agents, all the powers necessary to carrying on the business of banking. To discount and negotiate promissory notes, drafts and other evidence, of debt. To receive deposits and pay checks. To buy and sell exchange, coin and bullion, and to loan money on personal security. To issue and circulate bank notes as money.

Seventh. To prescribe, by its board of directors, by-laws regulating the manner in which its stock shall be transferred and its general business conducted.

§ 57. **Powers to Hold Real Estate.** For the following purposes, and no others, a national bank may purchase, hold and convey real estate:

First. The lot and building needed for the transaction of its business.

Second. Real estate mortgaged to it in good faith as security for debts previously contracted.

Third. Real estate conveyed to it in satisfaction of debts previously contracted.

Fourth. Real estate bought under judgments, decrees, or mortgages held by the bank, or purchased to secure debts due to it.

In no case shall it be allowed to hold real estate, obtained to secure debt, for a longer period than five years.

§ 58. **Limit of Loans.** Loans of money to any one person, or firm, or the several members of any firm, shall not exceed ten per cent. of the capital stock of any national banking association actually paid in ; except, in case of a discount of drafts or bills of exchange, drawn in good faith against existing values, and the discount of business paper owned by the person negotiating the same, shall not be considered as a loan of money.

§ 59. **Other Loans Prohibited.** Banking associations cannot make any loans nor discount any paper on the security of their own stock. Neither can they be holders or purchasers of such stock, excepting to prevent loss on a debt previously contracted in good faith. Should they acquire or purchase any stock, as just stated, it must be re-sold within six months, or a receiver may be appointed to close up the affairs of the institution.

§ 60. **Bank Notes as Security.** United States notes or national bank notes cannot be taken as security for a loan of money, and they cannot be held, under any pretext, as such security. A violation of this provision is deemed a misdemeanor and the penalty is a fine of not more than one thousand dollars and a further sum equal to one-third of the amount loaned; and the officer who shall make such loan shall be liable for a further sum equal to one-fourth of the amount so loaned. The fine incurred by a violation of this section shall be recoverable to the benefit of the person bringing suit.

§ 61. **Indebtedness.** The limit of indebtedness is fixed at an amount not exceeding the capital stock paid in, except on account of demands of the following nature:

First. Notes of circulation.

Second. Money deposited with or collected by the bank.

Third. Bills of exchange or drafts drawn on money due the association.

Fourth. Amounts due to the shareholders for dividends and reserve profits.

§ 62. **Certification.** A national bank must not certify any check drawn on it unless the drawer has on deposit with it, at the time the check is certified, an amount of money equal to the check. If an over-certification is made it is a valid obligation against the bank, but any officer, or clerk, who violates this section, or who resorts to any device, or receives any fictitious obligation, direct or collateral, in order to evade the provisions thereof, shall be deemed guilty of a misdemeanor and be subject to a fine of not more than five thouand dollars, or imprisonment for not more than five years, or both.

§ 63. **Uncurrent Notes.** No national bank shall pay out or put in circulation the notes of any bank which, at that time, are not receivable at par, by the association which issued them.

§ 64. **Use of the Word National.** Banks not organized under the National Bank Act, or the National Currency Laws, and all persons or corporations doing a banking business, brokers, or savings banks, except those authorized by Congress to use the word "National," are prohibited from using the word "National," as a part of their title, firm or corporate name. A violation of this section subjects the party chargeable to a fine of fifty dollars for each day during which it is committed or repeated.

IV. INCREASE AND REDUCTION OF CAPITAL.

§ 65. **Increase of Capital.** Any banking association formed by authority of the National Bank Act, may, by its articles of association, increase its capital stock whenever it

is deemed expedient. The maximum of such increase must be determined by the Comptroller of the Currency. Such increase is not valid until the whole amount is paid in and notice sent to the Comptroller and his certificate of approval received.

§ 66. **Reduction of Capital.** By a vote of shareholders owning two-thirds of the capital stock, any association organized under this Title may reduce its capital to any sum not below the minimum required by law, nor below the amount required for its outstanding circulating notes. Any proposed reduction must have the approval of the Comptroller, and the capital set free must be returned to the shareholders.

V. HOW BONDS ARE DEPOSITED.

§ 67. **U. S. Bonds.** The term "United States bonds," as herein used, means registered bonds of the United States.

§ 68. **Bonds Deposited.** Every banking association organized under this Title, before it shall be authorized to begin the business of banking, must deposit with the U. S. Treasurer, registered U. S. bonds to an amount not less than thirty thousand dollars and not less than one-third of its capital stock paid in. Such bonds shall be received by the Treasurer and by him kept safe in his office until they are disposed of as provided in the next section. See also § 71.

§ 69. **Change of Bonds.** The bonds must be increased as the bank's capital is paid up or increased, so that every association shall at all times have bonds on deposit with the Treasurer to an amount not less than one-third of the capital stock paid in. Any association desiring to reduce its capital or to close up its business and dissolve its organization may take up its bonds by returning to the Comptroller its circulating notes in proportion as hereinafter required, and may at any time take up its bonds in excess of one-third of its capital, and upon which no notes have been delivered.

§ 70. **Exchange of Bonds.** In order to facilitate a compliance with the last two sections, the Act of 1864 authorized the Treasurer to exchange registered bonds for coupon bonds, of the same tenor.

§ 71. **Amount of Bonds.** The amendment of 1882 to the National Bank Act declared that banks then organized or thereafter to be organized, with a capital of $150,000 or less, should not be required to deposit with the Treasurer bonds in excess of one-fourth of their capital stock as security for circulation. Any such bank with a deposit of bonds in excess of the amount just mentioned is at liberty to retire a part of its circulation as provided in the next section. In no case shall the circulation exceed ninety per cent. of the par value of the bonds deposited.

§ 72. **Retiring Part of Circulation.** Any national bank desiring to withdraw a part of its circulation may do so by depositing with the Treasurer, lawful money, and then may withdraw, in order of such deposits, a proportionate amount of bonds held as security for circulating notes. No national bank, thus withdrawing a part of its circulating notes, shall be permitted to increase its circulation for at least six months from the time it makes such deposit of lawful money as aforesaid. The maximum limit of deposits of lawful money for this purpose shall not exceed $3,000,000 in any calendar month. This section does not apply to bonds called for redemption by the Secretary of the Treasury, nor the withdrawal of circulating notes in consequence thereof.

§ 73. **How Bonds are Held.** All bonds transferred under this Title shall be made to the Treasurer of the United States in trust for the association. A memorandum is written or printed on each bond and signed by the president or cashier of the bank. The Comptroller sends to the bank a receipt specifying that the bonds are received and held in trust for the association as security for the redemption of the circulating notes delivered or to be delivered to the association.

§ 74. **Transfers.** Any transfer of such bonds by the Treasurer must be countersigned by the Comptroller of the Currency, and the latter must keep a complete record of every such transfer. Immediately after countersigning and recording any transfer by the Treasurer, the Comptroller shall notify, by mail, the association for whose account the transfer is made, of the kind, numerical designation and amount of bonds so transferred.

§ 75. **Access to Bonds.** The Comptroller shall at all times have access to the Treasurer's records regarding deposited bonds, and the Treasurer has a like access to the Comptroller's books; and the Comptroller shall at all times have access to the bonds on deposit with the Treasurer, to ascertain their amount and condition.

§ 76. **Depreciation of Value.** The bonds deposited for the security of circulating notes must be kept by the Treasurer for that purpose exclusively.

Each association is entitled to the interest accruing on all bonds so deposited, unless it fails to redeem its notes.

If the market value of the bonds is reduced below the amount of circulation issued, the bank must deposit money or other bonds to make good any such depreciation in value. And the Comptroller may return to the bank the bonds deposited, in amounts not less than one thousand dollars, upon receipt of the circulating notes in a proportionate amount; provided that the amount of the bonds remaining on deposit is not less than the amount required to be kept on deposit.

§ 77. **Examination of Bonds.** Every national bank shall, once or oftener in each fiscal year, examine and compare the bonds deposited by the bank with the records of the Comptroller and the accounts of the association, and if found correct, it shall execute, to the Treasurer, a certificate stating the kind, amount, and that the same are in the custody of the Treasurer. A duplicate of this certificate signed by the Treasurer shall be retained by the association. Such exami-

nation shall be made at such hour as the Comptroller and the Treasurer may select, and may be made by an officer or agent of the bank.

VI. HOW BANKS ISSUE AND REDEEM CIRCULATING NOTES.

§ 78. **Amount.** Upon a deposit of bonds as provided in §§ 68 and 69, except as modified in §§ 70 and 71, the association making the same shall be entitled to receive from the Comptroller of the Currency, circulating notes, of different denomination, in blank, registered and countersigned, equal in amount to ninety per cent. of the market value, not exceeding par, of the bonds deposited; and at no time shall the amount of such circulating notes issued to any association exceed ninety per cent. of the capital stock actually paid in.

§ 79. **Engraving and Printing.** Under the direction of the Treasurer, the Comptroller shall cause dies and plates to be engraved, in the best possible manner to guard against counterfeiting and alterations, and shall have printed therefrom, and numbered, such quantity of notes, in denominations of five dollars, ten dollars, twenty dollars, fifty dollars, one hundred dollars, five hundred dollars, and one thousand dollars, as may be required by the association entitled to receive them.

Such notes shall express upon their face that they are secured by bonds deposited with the Treasurer of the United States; bear the written or engraved signatures of the Treasurer and Register; and the imprint of the seal of the Treasury, though the omission of the seal would not invalidate a note. They shall also express upon their face the promise of the association to pay on demand, attested by the signatures of the president, or vice-president and cashier, and such other devices or statements as the Secretary of the Treasury may direct. In 1874 Congress provided that the charter number of the association should be printed upon all national bank notes thereafter issued.

§ 80. **Control of Plates and Dies.** The plates and dies used for printing national bank notes shall remain under the direction and control of the Comptroller of the Currency. All expenses necessarily incurred in executing the laws respecting the issue of such notes, and all expenses of the Bureau of Currency, shall be paid out of the proceeds of taxes and duties collected on the circulation of national bank notes.

§ 81. **Examination of Plates.** Once in each year the Comptroller must cause to be examined the plates, dies and other material from which bank notes are printed, and file in his office a correct list of the same. Such material as shall have been used in printing notes of closed banks or those in liquidation shall be destroyed under certain regulations. The expenses of any such examination and destruction of plates shall be paid by any appropriation by Congress for special examination of banks and bank-note plates.

§ 82. **Legal Tenders.** After the president, or vice-president and cashier, of the bank signs the circulating notes promising to pay on demand, the association may issue and circulate the same as money. Such notes shall be receivable at par in all parts of the United States in payment of taxes, excises, public lands, and all other obligations due the United States, except duties on imports; and also for all salaries and demands owing by the United States to individuals and associations within the United States, except interest on the public debt, and in redemption of the national currency. Every national bank, except those organized to issue gold notes, shall take at par any and all notes or bills issued by any lawfully organized national bank, whenever offered for any liability due it.

§ 83. **Unlawful Delivery to Banks.** If any officer countersigns or delivers any circulating notes as provided by §§ 78 and 79, except with the true intent and meaning of the provisions of this Title, he shall be deemed guilty of high misdemeanor, and shall be fined not more than double the amount so countersigned and delivered, and shall be imprisoned not less than one year nor more than fifteen years.

§ 84. **Imitation.** Every person who designs, engraves, prints, executes, issues, distributes, circulates, or uses, any business or professional card, notice, placard, circular, handbill, or advertisement, in the likeness or similitude of any circulating note or other national bank obligation, or who writes, prints or otherwise impresses upon any such note or obligation, any business or professional card, notice or advertisement, shall be liable to a penalty of one hundred dollars, recoverable one-half to the informer.

§ 85. **Mutilation.** Every person who mutilates, cuts, defaces, disfigures or perforates with holes, or unites or cements together, or does anything else to any bank notes, so as to render them unfit to be re-issued by the banking association, shall be liable to a penalty of fifty dollars, recoverable to the association.

§ 86. **Replacing Mutilated Notes.** The Comptroller shall receive worn-out or mutilated circulating notes of any national bank, and, on due proof of the destruction of any such notes, deliver in place thereof other blank notes to an equal amount. After a memorandum has been entered in the proper books, all such worn-out or mutilated notes, and also all circulating notes which have been paid or surrendered to be cancelled, shall be destroyed by maceration in the presence of four persons, one to be appointed by the Comptroller, one by the Treasurer, one by the Secretary of the Treasury, and one by the association, subject to such regulations as the Secretary of the Treasury may direct. A certificate of such maceration, signed by the parties so appointed, shall be made in the books of the Comptroller and a duplicate sent to the bank whose notes are thus cancelled.

§ 87. **Reserve Required.** Every national bank in Albany, Baltimore, Boston, Cincinnati, Chicago, Cleveland, Detroit, Louisville, Milwaukee, New Orleans, New York, Philadelphia, Pittsburg, Saint Louis, San Francisco and Washington, shall, at all times, have on hand, in lawful money of the United

States, an amount equal to twenty-five per cent. of its deposits; and every other national bank must have fifteen per cent. of its deposits on hand in lawful money, at all times.

When the lawful money of any association shall fall below that just mentioned, it shall not increase its liabilities by making any new loans or discounts except by discounting or purchasing bills of exchange, payable at sight; nor declare any dividends of its profits, until the required reserve of lawful money has been restored. The Comptroller may notify any association, whose reserve is below the required amount, to make good such reserve; and if such association fail, for thirty days thereafter, so to make good its lawful reserve of lawful money, the Comptroller may, with the concurrence of the Secretary of the Treasury, appoint a receiver to wind up the business of the association.

§ 88. **Proportion of Reserve Allowed in Reserve Cities.** Three-fifths of the fifteen per cent. reserve required to be kept by the foregoing section may consist of balances due to an association, available for the redemption of its circulation, from national banks doing business in the sixteen cities named in the preceding section. Clearing-house certificates, representing specie or lawful money, specially deposited for the purpose, shall be deemed, within the preceding section, to be lawful money in the possession of the association belonging to any such Clearing-house, holding and owning such certificate.

§ 89. **Approved Reserve Agents.** Each national banking association organized in any of the sixteen reserve cities, named in § 87, may keep one-half of its lawful-money reserve in cash deposits with some national bank in the city of New York. This provision does not apply to banks in San Francisco organized for the purpose of issuing notes payable in gold.

Each bank outside of the cities named shall select subject to the approval of the Comptroller, an association in

one of the sixteen cities named, at which it will redeem its circulating notes at par. The Comptroller shall give public notice of the name of the association at which the respective associations will redeem their notes, and of any change that may be made of the association at which the notes of any bank are to be redeemed. Should any bank organized under the National Bank Act fail to select a reserve city, or to redeem its notes as aforesaid, the Comptroller may appoint a receiver to close up the business of any such bank.

But this section shall not relieve any association from redeeming its notes at its own counter at par, in lawful money, on demand.

§ 90. **Extension of Reserve Cities.** In 1887 Congress enacted that whenever three-fourths of the national banks located in any city of the United States, having a population of fifty thousand, shall make application to the Comptroller, in writing, asking that the name of such city be added to the cities named in § 87, the Comptroller shall have authority to grant such request; and every national bank located in such city shall thereafter, at all times, have on hand, in lawful money, twenty-five per cent. of its deposits as provided in §§ 87 and 88.

Likewise when three-fourths of the national banks located in any city of the United States having a population of two hundred thousand shall make application to the Comptroller, in writing, asking that such city be made a central reserve city, like New York, in which one-half of the lawful-money reserve of the national banks of other reserve cities may be deposited, as provided in § 89, the Comptroller, with the Treasurer's approval, shall have authority to grant such request, and every national bank located in such city shall at all times have on hand, in lawful money of the United States, twenty-five per cent. of its deposits.

§ 91. **Redemption Fund.** Every national bank shall at all times have on deposit in the Treasury of the United States,

in lawful money, a sum equal to five per cent. of its circulation, to be held and used for the redemption of such circulation. Such sum shall be counted as part of the bank's lawful reserve as required by § 87; and when the circulating notes of any such bank shall be presented for redemption, in sums of one thousand dollars, or any multiple thereof, to the Treasurer of the United States, the same shall be redeemed in United States notes. The Treasurer shall charge the association issuing the same with all notes so redeemed, and he shall give notice to the association, on the first of each month, or oftener, of the amount of such redemption. Whenever such redemptions for any association shall amount to the sum of five hundred dollars, such association so notified shall deposit with the Treasurer a sum in United States notes equal to the amount of its notes so redeemed.

And all national bank notes, worn-out, or mutilated, or otherwise unfit for use, shall, when received by any Assistant Treasurer, or of any designated depository of the United States, be forwarded to the Treasurer of the United States for redemption as herein provided. And when such redemption shall have been so reimbursed, the circulating notes so redeemed shall be forwarded to the issuing association; but if any such notes are worn-out, defaced, mutilated, or otherwise unfit for use, they shall be sent to the Comptroller and destroyed and replaced as provided by law: Provided, That each of said associations shall reimburse to the Treasury the charges for transportation, and the costs for assorting such notes, and such charges and costs shall be in proportion to the circulating notes redeemed, and be charged to the five per cent. fund on deposit with the Treasurer.

In 1882 an amendment was enacted providing that banks making a deposit for the redemption of their notes should be assessed for the cost of transportation and redeeming their notes at the time of making the five per cent. deposit.

§ 92. **Gold-note Banks.** Banks may be organized in the manner described in §§ 78 and 79, for the purpose of issuing

notes payable in gold; and upon a deposit of any United States bonds, bearing interest payable in gold, with the Treasurer of the United States in the manner described for other associations, the Comptroller shall issue to such association circulating notes of the same denominations as other banks, but not exceeding in amount eighty per cent. of the par value of the bonds deposited, which notes shall express the promise of the association to pay them, upon presentation, in gold coin of the United States, and they shall be so redeemable.

§ 93. **Reserve on Circulation of Gold Notes.** Associations organized under § 92 shall at all times keep on hand at least twenty-five per cent. of their outstanding circulation, in silver or gold coin, and shall receive, at par, in payment of debts, the gold notes of every other such association which at the time of payment is redeeming its notes in gold coin. In this connection, lawful money shall be construed to mean gold or silver coin of the United States.

§ 94. **Gold Certificates.** In 1882 Congress authorized the Secretary of the Treasury to receive deposits of gold coin, in sums not less than twenty dollars, and to issue certificates therefor in denominations not less than twenty dollars each. The coin so deposited must be retained in the Treasury as a special deposit for the payment of the certificates on demand.

Gold certificates are legal tender for customs, taxes, and all public dues, and when so received may be re-issued. National banks holding either gold or silver certificates may count such certificates as part of their lawful reserve.

No national bank shall be a member of any Clearing-house in which such certificates are not receivable in settlement of balances.

Should the gold coin and gold bullion in the Treasury fall below $100,000,000, the Secretary shall suspend the issue of such gold certificates.

§ 95. **Treasury Certificates.** Any national bank may deposit, without interest, United States notes with the Secretary

of the Treasury, in sums not less than ten thousand dollars, and receive therefor certificates issued as the Secretary may direct, in denominations not less than five thousand dollars, and payable in United States notes. The notes deposited shall not be counted as part of the lawful reserve, but the certificates issued therefor may be so counted, and may be accepted in settlement of Clearing-house balances at the place where the deposits were made.

The issue of such United States Treasury certificates shall not be exercised so as to create any contraction or expansion of the currency; but the United States notes deposited shall be held as a special deposit for the payment of such certificates.

§ 96. **Issue of Other Notes.** No national banking association shall issue post-notes or any other notes to circulate as money other than such as are authorized by the provisions of this Title, but the issuing of a certificate of deposit shall not be considered as a violation of this section.

§ 97. **Other Restrictions.** *First.* The direct or indirect pledge or hypothecation of a bank's notes or circulation, for the purpose of creating or increasing the capital stock, or procuring money to be paid in on the capital stock, or to be used in banking operations, is prohibited.

Second. No national bank shall pay out or put in circulation any national bank notes which it will not receive at par in payment of debts due to it; nor shall any association knowingly pay out or put in circulation the notes of any bank which, at the time, is not redeeming its circulating notes in lawful money of the United States.

Third. All national bank officers and all United States officers who receive and disburse public moneys shall stamp or mark in plain letters the word "counterfeit," "worthless" or "altered" upon all fraudulent notes intended to circulate as money, which shall be presented at their place of business. If any officer wrongfully stamp any genuine note, he shall, upon presentation, redeem such note at the face value thereof.

§ 98. **Voluntary Liquidation.** "Any association may go into liquidation and be closed by the vote of its shareholders owning two-thirds of its stock."

§ 99. **Notice.** When a vote is taken to go into liquidation the board of directors must give notice to the Comptroller of the Currency, and a notice published for two months in a newspaper published in New York, and also in a newspaper published in the town where the bank is located, or if there be no paper in that place, then in the one nearest thereto, specifying that the bank is closing up its affairs, and notifying the creditors of the bank to present the notes and other claims against the association for payment.

§ 100. **Redeeming the Notes.** A deposit of lawful money, to redeem all the outstanding circulation, shall be made with the Treasurer, by the association, within six months after the vote to go into liquidation. The Treasurer issues duplicate receipts to the association and the Comptroller, stating the amount received and the purpose for which it was received. The money is paid into the Treasury and placed to the credit of the association in Redemption Account.

§ 101. **Consolidation.** If a bank is closing up its affairs to consolidate with another bank, it will not be required to redeem its circulation, but the Comptroller must be notified concerning the consolidation.

§ 102. **Bonds Re-Assigned.** When a sufficient deposit of lawful money, to redeem the outstanding circulation of a bank, proposing to close up its affairs, is made, the bonds deposited to secure its notes shall be re-assigned to it, and the bank and its shareholders shall stand discharged from any liabilities upon the circulating notes, and such notes will be redeemed by the Treasurer.

§ 103. **Destruction of Notes.** When any notes are redeemed under the five preceding sections, the Treasurer shall cause such notes to be mutilated and charged to the Redemption Account of the association; and all notes so redeemed by

the Treasurer shall, every three months, be certified to, and destroyed by maceration.

§ 104. **Failure to Take up Bonds.** Should a bank fail to take up its bonds as provided in § 100, within thirty days after the expiration of the time specified, the Comptroller shall have power to sell the bonds of said bank, at public auction, in New York city, and, after providing for the redemption and cancellation of said bank's circulation and the expenses of such sale, to pay any balance remaining, to the bank or its representatives.

§ 105. **Protesting Notes.** When any bank fails to redeem, in lawful money, any of its circulating notes, duly presented at its office or designated place of redemption, the holder may have such notes protested, in one package, by a notary public, unless the proper officers admit in writing that they will waive notice of protest. The notary public, on making the protest or receiving said admission, shall forthwith forward such protest or admission to the Comptroller, retaining a copy thereof. If the refusal to redeem is caused by the order of any court of competent jurisdiction, no protest shall be made. If more than one package or note be protested in one day, payment will be allowed for but one protest.

Protest fees must be paid by the person procuring the protest to be made, and the association shall be liable therefor; but no part of the bonds deposited by the bank shall be applied to pay such fees.

All expenses of preliminary or other examination, and of any receivership, shall be paid out of the assets of such association before distribution of the proceeds thereof.

§ 106. **Forfeiture of Bonds.** Upon receipt of notice, as in the preceding section, the Comptroller, with the concurrence of the Secretary of the Treasury, shall appoint a special agent who shall carefully investigate the matter and report to the Comptroller. If he ascertains that the bank has refused to redeem its notes, the Comptroller shall, within thirty days,

declare the bonds deposited by the association, to be forfeited to the United States, and they shall thereupon be so forfeited.

§ 107. **After Protest.** After default of any bank to pay its notes has been ascertained by the Comptroller and he has notified it, it shall not thereafter prosecute the business of banking,except to receive and keep safe, money belonging to it, and to deliver special deposits.

§ 108. **Notice to Note Holders.** As soon as the Comptroller has declared the bonds of a bank forfeited for non-payment of its notes, he shall give notice to the holders of the circulating notes of such bank, to present them at the Treasury for payment; and they shall be paid in lawful money of the United States; whereupon the Comptroller may, in his discretion, cancel an amount of bonds pledged by the bank, equal, at market value, not exceeding par, to the notes paid.

§ 109. **Sale of Bonds.** Instead of cancelling the bonds as provided in the preceding section they may, after thirty days' notice to the bank, be sold at auction in New York city, the association receiving any balance remaining after paying for the notes, the expenses of the sale, etc. Should the proceeds of the bonds thus sold be insufficient to re-imburse the United States for redeeming the bank's notes, the United States shall have a paramount lien upon all its assets; and such deficiency shall be made good out of such assets before any and all other claims, except the necessary cost of administering the same.

If the Comptroller deems it to the interest of the United States, he may sell the bonds at private sale, for not less than the current market value and not less than par; but no sale of bonds, either public or private, shall be complete until the transfer of bonds shall have been made with the formalities prescribed in § 74.

§ 110. **Cancellation.** All national bank notes presented at the Treasury for payment, shall, upon being paid, be cancelled and destroyed by maceration as provided in § 103.

VII. INTEREST.

§ 111. **Rate Permitted.** Any national banking association may take, receive and charge, on any loan or discount made, or upon any note, bill or other evidence of debt, interest at the rate allowed by the laws of the state, territory or district wherein the bank is located; unless the state fixes a different rate for banks of issue organized under its laws, when such rate shall be allowed to banks organized under this Title. When no rate is fixed by the laws of the state, banks may charge a rate not exceeding seven per cent., and such interest may be taken in advance, reckoning the days for which the note or other evidence of debt has to run. The purchase, discount or sale of a bona fide bill of exchange, payable at another place than the place of purchase, discount, or sale, at not more than the current rate of exchange for sight drafts in addition to the interest, shall not be considered as taking or receiving a greater rate of interest.

§ 112. **Penalty for Illegal Interest.** The taking of a rate of interest greater than is allowed by the preceding section, when knowingly done, shall be deemed a forfeiture of the entire interest which the paper carries with it, and which has been agreed to be paid thereon. In case the greater rate has been paid, the person by whom it has been paid, or his legal representatives, may recover back, from the association violating, in an action in the nature of an action for debt, twice the amount of interest thus paid; Provided, That such action is begun within two years from the occurrence of the usurious transaction.

VIII. JURISDICTION, PLEADING AND EVIDENCE.

§ 113. **What Courts.** National banks have power to sue and be sued, complain and defend, in any court of law or equity, as fully as natural persons. All national banks, shall, for the purpose of all actions by or against them, and all suits in equity, be deemed citizens of the states in which they are

respectively located; and in such cases the circuit and district courts shall not have jurisdiction other than such as they would have in cases between individual citizens of the same state.

Cases begun by the United States, or by direction of any officer thereof, or cases for winding up the affairs of any bank, may be tried in the Federal courts and the provisions herein shall not affect such jurisdiction.

§ 114. **Who to Conduct Suit.** "All suits and proceedings arising out of the provisions of law, governing national banking associations, in which the United States or any of its officers or agents shall be parties, shall be conducted by the district attorneys of the several districts under the direction and supervision of the Solicitor of the Treasury."

§ 115. **Evidence.** Every assignment, certificate or other document, issued by the Comptroller, in pursuance of law, bearing the seal of his office, shall be received in evidence in all places and courts; and all copies of such documents in the Comptroller's office shall in all cases be evidence equally with the original.

An impression of the seal directly on the paper shall be as valid as if made on wax or on a wafer.

§ 116. **Organization Certificate as Evidence.** Certified copies of the organization certificate, authenticated by the Comptroller's seal, shall be evidence in all places and courts of the existence of the association, and of every matter which could be proved by the production of the original certificate.

IX. CRIMINALITY.

§ 117. **Embezzlement.** Section 5209 of the Revised Statutes of the United States, which is as follows, covers most of the violations of the National Bank Act:

"Every president, director, cashier, teller, clerk or agent, of any association, who embezzles, abstracts, or willfully misapplies, any of the moneys, funds, or credits, of the association;

or who, without authority from the directors, issues or puts into circulation, any of the notes of the association; or who, without such authority, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment, or decree; or who makes any false entry in any book, report, or statement of the association, with intent, in either case, to injure or defraud the association or any other company, body politic or corporate, or any individual person, or to deceive any officer of the association, or any agent appointed to examine the affairs of any such association; and every person who with like intent aids or abets any officer, clerk, or agent in any violation of this section, shall be deemed guilty of a misdemeanor, and shall be imprisoned not less than five years nor more than ten years."

§ 118. **United States Securities.** The term, "obligation or other security of the United States," shall be construed to mean all bonds, certificates of indebtedness, national bank currency, coupons, United States notes, Treasury notes, fractional notes, certificates of deposit, bills, checks, or drafts for money, drawn by or upon any authorized officer of the United States, stamps and other representatives of value which may be issued by Congress.

§ 119. **Illegal Use of Plates and Bank-note Paper.** Every person having the custody or control of any plates used or to be used for printing any obligation or other security of the United States, who uses or permits the same to be used for printing any such obligation or other security, except as may be printed for the United States, by order of the proper officer; and every person who engraves or assists or procures to be engraved any plate in the likeness of any plate designed for printing such obligation, or who has such plate or plates in his possession, except under the direction of the Secretary of the Treasury or other proper officer, or with any intent, in either case, other than that such plate be used for the printing

of the obligations, or other securities of the United States; or, who has in his possession or control, except under authority of the proper officer, any such obligation or other security engraved and printed in the likeness of any such security of the United States, with intent to sell or otherwise use the same; and every person who prints, photographs, makes, or otherwise executes, or causes to be executed, or aids in executing any such print, photograph, or impression, or who sells any such print, etc., except to the United States, or who brings into the United States any such print, etc., except by direction of the proper officer of the United States, shall be punished by a fine of not more than five thousand dollars, or by imprisonment at hard labor not more than fifteen years, or by both.

§ 120. **Passing Counterfeit Notes.** "Every person who, with intent to defraud, passes, sells, or attempts to pass or sell, or keeps in possession or conceals with like intent, any forged, altered, counterfeited, or falsely made obligation or other security of the United States, shall be punished as provided in the preceding section."

§ 121. **Taking Impressions.** The penalty for illegally taking impressions of or from any bed-plate, bed-piece, die, roll, plate, seal, type, or any other tool or instrument used for, or intended to be used for printing or making any obligation or other security of the United States, or any national bank note, upon lead, foil, wax, paper, or any other substance or material, or who has in his possession any such impression, is fixed at not more than ten years' imprisonment, or a fine of not more than five thousand dollars, or both.

§ 122. **Counterfeiting National Bank Notes.** Every person who falsely makes, forges, or counterfeits, or procures to be counterfeited, or aids in counterfeiting, any note in imitation of the circulating notes of any national bank, or who passes, sells, or attempts to pass or sell, any false or counterfeit national bank note, knowing the same to be counterfeited, or who falsely alters, or who has anything to do with altering

any such note, or in passing or circulating the same, knowing it to be falsely altered or spurious, shall be imprisoned at hard labor for not less than five years nor more than fifteen years, and fined not more than one thousand dollars.

§ 123. **Dealing in Forged Notes.** The penalty for buying, selling, exchanging, transferring, receiving or delivering, any false, altered, forged or counterfeited, obligation or other security of the United States, or any circulating note of any national bank, is fixed at imprisonment not more than ten years, or fine not more than five thousand dollars, or both.

§ 124. **Circulating Closed-Bank Notes.** After a national bank's charter has expired, or it has, for any other reason, been terminated and has ceased doing business, if any director, officer or other agent, knowingly, issues, or in any way knowingly puts into circulation, any bill, note, check, draft, or any other security purporting to be the act of such bank, or if any person aids in such act, he shall be punished by a fine of not more than ten thousand dollars, or by imprisonment not less than one year nor more than five years, or by both.

This section applies only to directors, officers, or agents of the corporation, or any person who has the possession or control of the property of the corporation for the purpose of paying and redeeming its notes and obligations.

X. DISSOLUTION AND RECEIVERSHIP.

§ 125. **Protest.** For the regulations relating to protesting national bank notes, when the bank fails to redeem the same, see §§ 105, 106, 107, 108 and 109.

§ 126. When the Comptroller becomes satisfied, as specified in §§ 105 and 106, that any association has refused to pay its circulating notes as therein mentioned, he may forthwith appoint a receiver, and require of him such bonds and security as he may deem proper. Under the direction of the Comptroller, said receiver shall take possession of the books, records and effects of every description of such association.

He shall collect all debts, dues and other claims belonging to it, and, under the direction of the court, may sell all the property of such association, and may sell or compound all bad or doubtful debts; and may, if necessary to pay all debts, enforce the individual liability of the shareholders as prescribed in § 134. All moneys must be paid to the Treasurer, subject to the order of the Comptroller, and the receiver must report all his acts to the Comptroller.

§ 127. **Notice.** "The Comptroller shall, upon appointing a receiver, cause notice to be given, by advertisement in such newspaper as he may direct, for three consecutive months, calling on all persons who may have claims against such association, to present the same, and to make legal proof thereof."

§ 128. **Dividends to Creditors.** From time to time, after provision has been made for refunding to the United States any deficiency in redeeming the notes of such bank, the Comptroller shall make a ratable dividend of all money paid over to him by such receiver, on all claims proven to his satisfaction, and, as the proceeds of the effects of the association are paid over to him, he shall make further dividends on all claims previously proven; and the remainder, if any, shall be paid over to the shareholders of the association, as provided in the next succeeding section.

§ 129. **Election of Agent.** After the receiver has reported and the Comptroller has paid all the creditors of the bank, except the shareholders, as provided in the preceding section, he shall call a meeting of the shareholders, by newspaper notice for thirty days, at which meeting the shareholders shall elect, by a majority vote, an agent, who, after filing a bond for faithful performance to the satisfaction of the Comptroller, shall receive from the Comptroller and receiver all the undivided and uncollected effects remaining in the hands, or subject to the control or order, of said Comptroller and receiver, or either of them, and for this purpose the Comptroller and receiver are hereby severally empowered to execute

any deed, transfer, assignment or other instrument in writing that may be necessary; whereupon the said Comptroller and receiver shall be discharged from any and all liabilities to the association, and each and all creditors and shareholders thereof. Such agent shall have power to sell and otherwise dispose of the remaining property of the bank and to distribute the proceeds pro rata among the shareholders, until all is disposed of.

§ 130. **Forfeiture of Franchise.** If the directors of any national bank shall knowingly violate, or permit any of the officers or servants of the bank to violate, any of the provisions of this Title, all rights, privileges and franchises of the association shall be thereby forfeited. Such violation, however, must be determined by a proper court, in a suit brought for that purpose, by the Comptroller in his own name, before the association shall be declared dissolved.

§ 131. **When Receiver May be Appointed.** Whenever the charter of any association is declared forfeited as provided in the preceding section, or whenever any creditor shall have obtained a judgment against it, and made application accompanied by a certificate from the clerk of the court, that such judgment has remained unpaid, for thirty days, or when the Comptroller becomes satisfied that any such bank is insolvent, he may, in either case, appoint a receiver who shall proceed to close up such association and enforce the personal liability of the shareholders as provided in § 134.

§ 132. **Right to Enjoin.** If any association, against which procedings have been instituted on account of alleged refusal to redeem its notes, as hereinbefore mentioned, denies such charges, it may, within ten days after it has been notified of the appointment of an agent, as already provided, apply to the nearest district, territorial or circuit court, to enjoin further action; and if such court, after due investigation, finds that such association has not refused to redeem its notes when duly presented, it shall make an order enjoining the

Comptroller, and any receiver, from further proceedings on account of such alleged refusal.

§ 133. **Voluntary Liquidation, and Notice.** See §§ 98 and 99.

§ 134. **Individual Liability of Shareholders.** The shareholders of every national bank shall be held individually responsible, equally and ratably, for all contracts, debts and engagements of the association, to the extent of the amount of their stock therein, at the par value thereof, in addition to the amount invested in such shares. If the bank goes into liquidation under § 98, the individual liability mentioned herein may be brought by any creditor of the association, by a bill in equity in the nature of a creditor's bill, in behalf of himself or all the creditors, against the shareholders of such association, in any proper court.

XI. EXAMINATIONS AND REPORTS.

§ 135. **Bank Examinations.** As often as he deems it necessary, the Comptroller, with the approval of the Secretary of the Treasury, shall appoint a suitable person, or persons, to make an examination of every national bank, who shall have power to examine thoroughly into the affairs of the bank, and in doing so, to examine, on oath, any of the officers or agents of the association; and shall make a detailed report of the same to the Comptroller. No director or officer shall be appointed to examine any bank for which he is a director or officer.

§ 136. **Compensation.** The compensation for examining national banks outside of the redemption cities, and the states of Oregon, California and Nevada, is as follows: Banks with a capital less than $100,000, $20; capital $100,000 and less than $300,000, $25; capital $300,000 and less than $400,000, $35; capital $400,000 and less than $500,000, $40; capital $500,000 and less than $600,000, $50; capital $600,000 and over, $75. This compensation is assessed against, and must be paid by, the association examined.

Banks situated in the reserve cities and in Oregon, California and Nevada shall pay for examination such compensation as the Comptroller, with the approval of the Secretary of the Treasury, may fix.

§ 137. The Comptroller is further authorized to have examined, any bank in the District of Columbia organized by the acts of Congress, and the result may be reported to Congress. The compensation for such examination shall be paid out of any appropriations made by Congress for special bank examinations.

§ 138. **Visitation.** National banks are subject to no visitorial powers other than specified in the two preceding sections.

§ 139. **Reports.** Every national bank, savings bank, savings and trust company, shall make to the Comptroller not less than five reports during each year. Such reports shall be verified by the oath or affirmation, properly administered, of the president or cashier of such association and attested by the signatures of at least three of the directors. Each such report shall exhibit in detail, under such headings as the Comptroller may prescribe, the resources and liabilities of the association at the close of business on any past day by him specified; and shall be transmitted to the Comptroller within five days after the receipt of a request therefor from him; and in the same form as made to the Comptroller it shall be published in a newspaper printed in the town where the bank is located, or if there is none, then in the one nearest thereto, in the same county, and at the expense of the association; and the Comptroller may require proof of such publication.

The Comptroller shall also have power to call for special reports as often as he may deem necessary.

§ 140. **Report of Dividends.** Within ten days after any association has declared any dividend, it shall report to the Comptroller of the Currency the amount of such dividend, and the amount of net earnings in excess of such dividend.

Such report shall be attested by the oath of the president or cashier of the bank, or savings or trust company.

§ 141. **Penalty.** Every association which fails to make and remit any report required by either of the two preceding sections shall be subject to a penalty of one hundred dollars for each day that it delays to make such report. The penalty just mentioned may be retained by the Treasurer upon order of the Comptroller, out of the interest, as it may become due to any national bank, on the bonds deposited to secure the circulation; and the penalties from savings banks, savings and trust companies may be collected by suit before any court of the United States in the district wherein the association is located.

All sums of money collected for penalties under this section shall be paid into the Treasury.

XII. TAXATION.

§ 142. **Taxing the Shares.** Shares in any national bank are to be included in the personal property of the owner of such shares, in assessing taxes imposed by authority of the state within which the association is located; but the legislature of each state may prescribe the manner and place of taxing all the shares of national banks located within said state, subject to only two restrictions: first, that the taxation shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such state; and second, that the shares of any national bank, owned by non-residents of any state, shall be taxed in the city or town wherein the bank is located, and not elsewhere.

Nothing herein shall be construed to exempt the real property of associations from state, county or municipal taxes, the same as other real property is taxed.

§ 143. **Exemption on Circulation.** Whenever the outstanding circulation of any bank, association, corporation, company, or person is reduced to an amount not exceeding

five per cent. of the capital stock existing at the time the same was issued, said circulation shall be free from the taxation provided by § 149; and whenever a bank, which has ceased to issue notes for circulation, deposits money with the Treasurer for their redemption, as provided in § 100, it shall be exempt from any tax on such circulation.

§ 144. **Tax on Other Bank Notes.** Every banking association, whether national, state or private, shall pay a tax of ten per cent. on the amount of notes of any person, company, state bank, or state banking association, used for circulation by it. The bank, or person who issues said notes, is subject to the same tax.

§ 145. **Tax on Other Notes.** Every banking association, whether national, state or private, shall pay a tax of ten per cent. on the amount of notes of any town, city or municipal corporation, put in circulation by it.

§ 146. **Statement of Circulation.** To provide for collecting the tax mentioned in the two preceding sections, Congress has required that every banking association shall make a true and complete return of the monthly amount of circulation, of the monthly amount of notes of town, city, municipal, person, state and private banks paid out for the previous six months, and the same shall be made in duplicate on the first day of June and the first day of December of each year, by each of such associations. Such return shall be accompanied by a declaration, under oath, of such person, or the president or cashier, that the same is a true and faithful statement of the amounts subject to taxation. One copy of the same shall be sent to the collector of the district in which such association is located, or in which such person has his place of business, and one copy shall be sent to the Commissioner of Internal Revenue, who may prescribe the form of such statement.

§ 147. **Penalty.** If any person, company or association fails to make the return provided in the preceding section, the

Commissioner of Internal Revenue may estimate the amount of notes contemplated therein, upon the best information he can obtain. And for any refusal or neglect to make such return and payment, the person, company or association shall pay a penalty of two hundred dollars, besides the additional penalties and forfeitures prescribed in other cases.

§ 148. **Return on Circulation of State Banks Converted.** If any state bank be converted into a national bank, and such national bank has assumed all the liabilities of such state bank, including the redemption of its notes, it must make returns and pay the tax already provided, on such notes, as long as they exceed five per cent. of the capital stock of such state bank before conversion.

§ 149. **United States Tax.** The only tax on national banking associations is a semi-annual duty of one-half of one per cent. on the average amount of its notes in circulation. This duty or tax of one per cent. a year is payable to the Treasurer in the months of January and July.

§ 150. **Semi-Annual Return on Circulation.** In order to enable the Treasurer to assess the tax specified in the preceding section, each association shall make, within ten days of the first of January and July, of each year, a return, under oath of its president or cashier, to the Treasurer, in such form as he may direct, of the average amount of its circulation for the six months next preceding the report.

The penalty for failure to make such report is fixed at two hundred dollars, to be collected out of the interest due to the association on its bonds on deposit, or, at the option of the Treasurer, in the manner in which the penalties are to be collected of other corporations under the laws of the United States.

§ 151. **Refund of Excess.** If an association has paid or may pay in excess of what may be or has been found to be due from it, on account of the duty required to be paid to the Treasurer, the association may state an account therefor,

which, on being certified by the Treasurer, and found correct by the First Comptroller of the Treasury, shall be refunded in the ordinary manner by warrant on the Treasury.

XIII. CONVERSION OF STATE BANK TO NATIONAL BANK, AND VICE VERSA.

§ 152. **From State to National.** Any state bank may become a national association under this Title by the name prescribed in its organization certificate. The articles of association and organization certificate may be executed by a majority of the directors of the state bank, and the certificate shall declare that the owners of two-thirds of the capital stock of such state bank have authorized the directors to convert the institution into a national association. The shares may continue to be for the same amount, and the directors may continue to be the directors of the new association until others are elected or appointed. As soon as the Comptroller's certificate authorizing the association to begin the business of banking under the national law has been received, it shall then be in all respects the same as other national banks.

§ 153. **From National to State.** It is most generally held that in order for a national bank to change to a state institution, it will be necessary for the national association to close up its affairs as already provided, in §§ 98 and 99. In which case, after its affairs are all settled, the property may be used to form a state bank.

CHAPTER IV.

THE BOARD OF DIRECTORS, AND THEIR POWERS.

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§ 154. "All the powers of a national banking association are exercised through its board of directors. As a general rule it may be said that associations will prosper just in proportion as their directors are intelligent and faithful. The details of the business must, of course, be in charge of its officers, and the duty of selecting these is one of the greatest

responsibilities devolving upon the board; for unless the active managers are skillful, honest and attentive, the affairs of the association cannot prosper."

Every successful institution must have competent advisors. A successful governmental administration is largely due to the wisdom shown in appointing a good cabinet; and the success of a national bank is, in a great measure, due to the acts of its board of directors. The selection of the board of directors is in the hands of the shareholders, and their choice may not, in every case, be for their best interests. Yet most directors have good intentions, when they enter on their duties, whether or not they afterward become more solicitous for their own interest than for the welfare of the bank. Each director should be a shrewd, honest business man—the more experience he has had the better. It is not necessary that every one who is placed on the board should be an experienced manager; in fact the incumbents of nearly all positions acquire the knowledge and methods, which make their work a success after they assume the responsibilities of such office. As with every one else, a board of directors attain success after a series of seeming failures; but a little experience goes a long way, and if the *personnel* of such a body be of the proper kind, with the interests of the bank above their own interests, there is but little to fear.

§ 155. **Qualifications.** A bank director must own in his own right at least ten shares of the capital stock of the bank of which he is a director, and the same must not be hypothecated, or in any way pledged for debt. And as already suggested, he ought to be selected on account of his probable fitness for such a place, rather than from a consideration of the number of shares he may own.

If a director is elected by a less number of votes than is required by the charter, he is a *de facto* director and can bind the bank by his acts as such. A *de facto* director or a direc-

tor *de jure* can bind his bank; and his acts are valid even after selling his stock. The law states that the officer shall be a stockholder, but there is no statutory regulation that a vacancy shall be deemed to exist if the officer, before his term expires, shall cease to be a stockholder.[a]

§ 156. **Oath of Office.** At the first meeting of the newly elected directors each must take an oath of office couched in the following words:

"I, the undersigned, Director of The..... .....Bank, of the city of ... ., of the county of....., of the state of....., do solemnly swear that I am a citizen of the United States and resident of the State of....., and that I will, so far as the duty devolves on me, diligently and honestly administer the affairs of said Bank; and that I will not knowingly violate, or willingly permit to be violated, any of the provisions of the Revised Statutes of the United States, under which this Bank has been organized; and that I am the bona fide owner, in my own right, of the number of shares of stock subscribed by me or standing in my name on the books of the said Bank, and required by said Revised Statutes; and that the same is not hypothecated or in any way pledged as security for any loan or debt. GEORGE W. WYERMAN."

"Subscribed and sworn to this first day of September, 1892, before the undersigned, of said county.

O. C. BAKKE,
Notary Public."

The cashier must see to it that the oaths of the directors are at once sent to the Comptroller of the Currency. If the directors are not present at the first regular meeting after their election, it is customary to have a notary hunt them up and administer the oath, that the cashier may send to the Comptroller the oaths of the full board.

The National Bank Act fixes the minimum number of directors at five. There is no other limit to the number which a

[a] Desp. Line of Packets *v.* Bellamy Mf'g Co., 12 N. H., 205.

bank may have. Most banks have from nine to thirteen, though some have but five and others as many as twenty-five; and nearly all have an odd number.

§ 157. **Regarding the Board.** The affairs of every national bank are conducted by the board of directors, acting as a board. The individual members of a board have no power separately. They must act in the capacity of a board with a quorum present. Notice to one director is not notice to the bank, neither can the promise of one director, nor even the promise of all the directors separately, bind the bank, for one has no separate power.

The election of an individual as a director does not constitute him an agent of the corporation with authority to act separately and independently of his fellow members. It is the board duly convened and acting as a unit that is made the representative of the association. The assent or determination of the members of the board, acting separately and individually, is not the assent of the corporation. The law proceeds upon the theory that the directors shall meet and counsel with each other, and that any determination affecting the association shall be arrived at and expressed only after a consultation at a meeting of the board, attended by at least a majority of its members.[b]

In taking the oath of office, if a director willfully mis-states regarding the number of shares which he owns, and that the same are not hypothecated, or otherwise pledged for debt, when in fact they are so pledged, he will be deemed guilty of perjury and punished accordingly.

§ 158. The directors are not the body corporate. For all purposes of dealing with others, they may be considered the corporation; yet they are but officers, the same as the cashier and other officers. A director's power is limited, and every one who deals with him, when he exceeds that limit, does so at his peril. A director has no delegated power to act for the

[b] Bank *v.* Drake, 35 Kansas, 564.

association; of course, he may be given such power, or any special power, by the acts of the board. The directors are not only agents of the corporation, but are also trustees for the creditors and shareholders, and in this capacity they must, in good faith, follow the terms of the charter, or they will be liable for any loss that may occur from such breach of trust.

When a director is elected he must either accept or refuse the place. If he does not refuse he is presumed to have accepted, though if he does not attend the meetings for several months he cannot be presumed to have accepted even though his name, as director, may have frequently appeared in the papers. If he does not accept, he is not a director and cannot be held liable as such.

§ 159. **Notice of Meetings.** Often the charter or by-laws prescribe that the directors shall have notice of meetings and the nature of the business to be transacted. On this point Justice Magie says:[c] As each director is entitled to take part in the exercise of the power, each is entitled to notice. Notice may be given by the adoption of rules fixing the times for stated meetings; constructive notice will be sufficient if some rule, legally prescribed, declares it sufficient; but for special meetings, in the absence of a rule for constructive notice, actual notice must be given. In the absence of such notice, a special meeting will not be legally convened.

Notice need not be in writing, and for the transaction of ordinary business need not specify the purpose of the meeting.

§ 160. **What Constitutes a Quorum.** After the meeting is called, it is important to know what unanimity is necessary to render the directors' actions legal. The charter, or by-laws, often specify how many members shall constitute a quorum, and, of course, these provisions must be followed. If a quorum is present, a majority of these may legally transact business. Justice Potter says:[d] "In case of a definite body, like

[c] Metropolitan Telephone & Telegraph Co. *v.* Domestic Telegraph & Telephone Co., 44 N. J. Eq., 568.

[d] Lockwood *v.* Bank, 9 R. I., 308.

a board of bank directors, a majority must be present at a regular meeting; or, at a special meeting, notified according to by-law, if there be any, or otherwise reasonably notified, all the members (except in cases of absence at a distance), without fraud or attempt at surprise, and at such meeting a majority of those present can act for the whole."

§ 161. **Contract between the Bank and the Director.** The question whether a director may contract with his bank has been variously viewed by the courts. A director of a corporation is not absolutely prohibited by law from entering into a contract with the corporation through his co-directors. Whether such a contract is binding must depend upon its terms and the circumstances under which it was made. Owing to the peculiar relation which the directors hold to the corporation, being strictly trustees, and their position being in every sense fiduciary, their contracts with the corporation should be scanned, if not with suspicion, at least with the most scrupulous care. If the effect of the provisions of such contract be pernicious and tends to work a fraud on the rights of the corporation and stockholders, the directors must be regarded as having no authority to enter into it.*

Unless prohibited by statute, directors may loan the money of their bank to themselves. While the officers of a bank ought never to be borrowers, yet the president, cashier or directors of a national bank may borrow money from the bank, the same as any other person may, and execute a valid note for the same that will bind them as well as the bank receiving it; and such note is not void, nor, in the absence of fraud, can such a note be repudiated or avoided by the bank, by reason of that relation.

Directors cannot legally loan the bank's money to themselves at less than the ordinary rate, nor, if the by-laws limit the amount to be loaned to directors, can they exceed such limit.

* Angel & Ames on Corp., 233.
† Blair *v.* Bank, 2 Fillipin, 111.

On this point Ex-Comptroller Lacey says that there is a disposition exhibited by some directors to monopolize the loans and discounts of the bank, thus converting to their own use the funds of others intrusted to their keeping, thereby exposing the bank to losses by reason of want of proper distribution of its loans, and subjecting to inconvenience those customers of the bank who are not favored with a place at the directors' table. Such inattention and selfishness are too often the characteristics of bank directors and are productive of serious consequences, but when accompanied, as they sometimes are, by lack of integrity the most direful results are realized.

§ 162. **May Assign Securities.** Directors have power to assign or transfer the securities belonging to the bank, or they may delegate one of their number to assign them.[g] And they have power to borrow money for their bank. It is a well settled law that a corporation may borrow money for ordinary business, and may give its obligation for the money borrowed, and it likewise has the right, instead of giving its own obligation, to turn over its assets to secure the payment of money so borrowed.[h]

§ 163. **Compromise.** Settlement of a loss or defalcation, by compromise, does not fall within the ordinary powers of a corporation, which may be exercised by its agents; but power to do such acts must be conferred by the board of directors, and any profit arising from compromise by directors must go to the association.[i]

§ 164. **May Act without Seal.** The doctrine is now entirely exploded that corporations can contract only under their corporate seal. They may contract by vote entered on the books of the association, and binding contracts may be implied from corporate acts, without vote, deed or writing,

[g] Stevens *v.* Hill, 29 Maine, 133.
[h] Clark *v.* Titcomb, 42 Barb., 122.
[i] Bank *v.* Bailhache, 65 Cal., 327.

and they are bound by contracts made by their agents within the scope of their authority.

§ 165. **Imputation of Knowledge.** It is important to know when notice to directors is notice to the bank. It is generally supposed that a director should be conversant with the ordinary affairs of the bank, and especially such as a general examination of the ledgers, books and statements of the bank would reveal. It is the duty of directors to acquaint themselves with the ordinary affairs of their bank, and what the directors know the bank is supposed to know. If, however, a director has notice when not acting officially, it would not be notice to the bank.

§ 166. **Directors Personally Liable.** If the directors exceed their authority, or fail to do their duty, they are personally liable to the bank, and it can proceed against them. And in case they are grossly negligent, or show such lack of competency as to disregard their duty to care for and protect the funds in their charge, they are responsible directly to the depositors. If, for example, the bank continued to do business when the slightest examination of its affairs, by the directors, would have disclosed its insolvency, the directors would be liable.[j]

§ 167. The wrongs of directors are: First, fraud or embezzlement committed by themselves.

Second, willful misconduct, or breach of trust committed for their own benefit and not for the benefit of the stockholders.

Third, acts beyond the chartered power of the bank, and beyond the general powers conferred by law upon corporations.

Fourth, gross inattention and negligence, allowing fraud or misconduct on the part of agents, officers or co-directors, which could have been prevented if they had given ordinary care and attention to their duties.[k]

§ 168. So if they misappropriate or misapply the funds and thereby a loss occurs, they are liable; if they exceed their

[j] Godbold *v.* Branch Bank, 11 Ala., 191.

[k] Directors *v.* Bossieux, 4 Hughes, 387.

authority as general agents they bind only themselves, not the bank; if by gross inattention they permit fraud and misconduct by other officers, they are liable for the loss, if any; if they squander the money put in their possession, and thereby the depositors are defrauded, they are personally liable; if they discount questionable or worthless paper, knowing that it is questionable or worthless, they are liable for any loss which occurs. They are also liable if they fail to give proper notice to indorsers when paper is protested, such failure being considered gross neglect.

§ 169. **Failure to Examine the Books.** Perhaps no form of directorial negligence is more common than failure to examine the bank's books when such examination would disclose the wrong doings of other officers, and the directors have repeatedly been held personally liable for such inattention. Where the business is large, of course, a thorough examination would entail much time, but where a casual examination would reveal irregularities, such examination should be made.

§ 170. **Directors Must Have Knowledge of Fraud.** Directors are not liable for every fraud and misrepresentation practiced by the manager or other officers. They must have some knowledge or participation in the alleged fraud, for it is only when a director lends his name and influence to promote a fraud upon the community, or is guilty of some violation of law, or other mismanagement, that he is personally liable.[1]

§ 171. **Directors Not Personally Liable.** The undertaking implies a competent knowledge of the duties of the agency assumed, as well as a pledge that they will diligently supervise, watch over and protect the interests of the institution committed to their care. They do not undertake to possess such perfect knowledge as that they cannot err, or be mistaken, either in wisdom or legality of the means employed by them. To exact such extreme accuracy of knowledge from those to whom, of necessity, a large discretion in the choice of means

[1] Arthur *v.* Church, 55 N. Y., 400.

must be entrusted, would be manifestly wrong. Human wisdom is not infallible and many losses may occur which might have been avoided; and the inevitable tendency of such a rule would be hostile to the end proposed by it, as no man of ordinary prudence would accept a trust surrounded by such perils.[m]

§ 172. **Degree of Diligence Required.** The general rule is that the directors are only required to keep within the limit of the bank's powers, and to exercise good faith and honesty. They only undertake to perform those duties according to the best of their judgment, and with reasonable diligence. A mere error of judgment will not subject them to personal liability for its consequences. They are personally bound only in the management of the affairs of the corporation to use reasonable diligence and prudence, such as ordinarily prudent men usually exercise in the management of their own affairs of a similar nature.[n]

§ 173. **Meeting of Directors.** In most banks the board meets twice a week, but often, in large banks, they meet daily. As in other things, the mode of discounting varies with different banks. In the large cities, the business manager passes on the paper as soon as it is offered for discount. Money is wanted; the customers cannot wait, and they are speedily told whether the loan will be granted or not. In most country banks the paper is taken before the board of directors and they must pass upon it.

After the manager grants a loan, when he has authority to do so, he usually submits it to the board for their approval; and when he is in doubt as to whether or not to grant a certain loan he refers it to the board.

§ 174. At the meeting, the president is seated at the head of the table, and the cashier, who is the secretary of the

[m] Godbold *v.* Branch Bank, 11 Ala., 191.

[n] Field on Corp., §§ 169, 171; Angell & Ames on Corp., § 314; Hodges *v.* New Eng. Screw Co., 1 R. I., 312.

board, near him. After the roll of the board is called, the cashier reads the minutes of the last meeting, and they being approved, other business is taken up. The discounts and other business transacted by the manager since the last meeting is also taken up for ratification. If the board is to pass on discounts, and a single director objects, the board will usually refuse it. If the objection is only prejudice it is not considered, but if a director says he has good reasons for refusing, the board will refuse. Directors are chosen partly for the information which they may possess regarding the condition of business, and especially of those in the lines of business in which they themselves are engaged. A director will know more about the financial condition of persons engaged in the same business as himself, than other directors, and this is why a director's opinion has so much weight.

§ 175. **Compensation.** Too often the only compensation which directors receive is the facility for borrowing money from the bank which such a position may offer. In some small or country banks, when loans to directors are properly secured, this mode of remuneration may be better than direct compensation, but usually, when the position is not honorary, direct payment is the easiest, safest and most economical mode of remunerating bank directors. Some men will not accept a position on the board unless they receive a stipulated pecuniary compensation, and this is a trait to be generally commended.

If, however, they are elected to serve without compensation, they cannot be compensated by their own action. "We regard it as contrary to all sound policy to allow a director, elected to serve without compensation, to recover payment for services performed by him, in that capacity, or as incidental to his office."[9] Neither can a director increase his salary by his own action. If a director serves outside of his capacity as director, such as secretary, attorney or other officer,

[9] Am. Central R. R. Co. *v.* Miles, 52 Ill., 174.

he may be paid for such services the same compensation as any other person, if employed to render the same service.[p]

§ 176. **Increasing the Capital Stock.** The capital stock of a national bank can be increased only in the manner provided by law.[q] There are three things to be done:

1. The association shall assent to an increased amount.

2. The whole of such increase shall be paid in as a part of the capital of such association.

3. The Comptroller of the Currency shall, by his certificate, certify to the increase.

Two-thirds of the stockholders must assent to the increase, the whole amount must be paid in, and the consent of the Comptroller must be obtained.[r]

§ 177. **Selling the Increased Stock.** At what price shall new stock be sold? The Bank Act contains no provisions on this subject. The par of the stock is one hundred dollars. But at what price shall the new stock be sold when the old stock is at a premium? This is the question which confronted a Boston bank a short time ago. Some of the board favored $100, others $150.

If sold at par the value of the present stock would be reduced. The higher the price the more valuable the stock will be.

The best way to sell increased stock is at auction in lots that will be easily disposed of; the next best way is to sell to shareholders at a premium; the poorest way is to sell at par stock that is worth $150, or any fair premium.

§ 178. **Place of Doing Business.** National banks must transact all their business of banking at the place designated in the articles of association, except such as the messenger may transact when not in the bank, etc. They may, of course, employ other banks as agents for collections, etc., but

[p] Rogers *v.* Hastings & Dak. R. R. Co., 22 Minn., 25; Chandler *v.* Bank, 4 Hals., 101.

[q] See § 65.

[r] Delano *v.* Butler, 118 U. S., 634.

they cannot set up branch offices for the transaction of the regular banking business.

The provisions requiring "the usual business" of the association to be transacted "at an office or banking-house in the place specified in its organization certificate" must be construed reasonably; and a part of the legitimate business of the association, which cannot be transacted at the banking-house may be done elsewhere.[s]

According to § 44, providing that "the usual business of each national banking association shall be transacted at an office or banking-house located in the place specified in its organization certificate," a national bank cannot make a valid contract for the cashing of checks upon it at a different place from that of its residence, through the agency of another bank.[t]

The same rule pertains to state banks organized under the state laws. Much trouble has been experienced in this connection in Iowa, lately, and the Attorney General has handed down the following opinion:

COUNCIL BLUFFS, Iowa, July 25, 1892.

Hon. James A. Lyons, Auditor of State, Des Moines, Iowa:

DEAR SIR: I am in receipt of yours of July 15th, in which you ask for my opinion on the following questions:

1. Can a bank incorporated under the laws of Iowa have a branch bank in the same town or city where the bank is located, for the reception of deposits, issuing of drafts, and other transactions in connection with its business?

2. Can such a bank have a branch or branches in different cities and towns?

3. Can such a bank have a "branch office" or "branch department" in the town or city where located for the transaction of its business?

I am of the opinion that all these questions must be answered in the negative. A branch bank or office where deposits would be received, drafts issued, and all the other functions of a bank performed, would be in effect a separate banking esablishment. The laws of the State of Iowa providing for the supervision and control of banks contemplated for the safety of the public an intimate and thorough examination of and reports concerning the business of each bank. I do not think it was within the meaning and purpose of

[s] Bank *v.* Bank, 10 Wall, 604.

[t] Armstrong *v.* Bank, 38 Fed. Rep., 883.

these laws to permit several separate banking establishments to aggregate themselves and do business under one certificate. There is no difference in principle between the consolidation of several previously independent banks under single articles of incorporation and the multiplication of one bank into several by the process of establishing branch banks or departments. Such branches would not be the usual and ordinary agencies used by banks for the transaction of their business in other localities. A bank may use other banks as its agents for collections, discounts, etc., but the establishment of a branch bank in the manner indicated by the above questions would be in essence and effect the establishment of a separate banking institution. Such an institution should, I believe, be required to obtain a separate certificate and make separate reports. Yours truly,

JOHN Y. STONE,
Attorney General.

§ 179. **Manager.** Bank directors are usually regarded as a board and not as individuals. In this capacity they have entire control of the bank's affairs, but, not unlike every other body of men, there must be some one man who leads and really does all the managing. The successful army is largely controlled and managed by one man; so is the ideal government; so is the model family; so are all gatherings, conferences and meetings, if any good is done thereat. So a bank must have a ruling spirit who guides its affairs and manages its transactions, or it cannot succeed. The vigilance must be centered in one man, for if two or more men are responsible, no one is responsible. There must be a manager to keep vigilance, and if possible a man who is known to possess skill, integrity and suitable experience. If such an one cannot be found, as is often the case in small banks, then the man who is best fitted for the place and can be secured.

If the manager is given complete control of the affairs of the bank, its success is in a measure assured. He is responsible for the general results of the business; he must provide funds to meet the emergencies of the bank; he must supervise the tellers and all minor officers; he must guard against burglary, loss by forgery, and by theft by other officials; he must be ever on the alert, and see that the collections and all other important parts are punctually attended to.

§ 180. **Duties Begin.** After the executive has been appointed, the duties of the directors begin. The chief duty of the board is to supervise, and, as supervision in name only is worse than none, it is the first duty of the directors to attend the meetings. The board should not only supervise the general affairs, but it should supervise the manager also. No man who is honest, and is trying to discharge his duties properly, will object to having his doings looked into; and for the good of the bank this should be done. Man is not infallible and is liable to commit errors, and if he is the proper man for such a place, he will be glad to have these pointed out to him. If a man objects to an investigation of his acts there is probably something wrong, and the sooner the matter is investigated the better.

The manager of a bank ought to have authority to discount and to refuse to discount paper which is offered for that purpose. Many banks allow this, and it gives the manager authority to pass on discounts at all times during business hours. To most borrowers this is quite an inducement over having to wait until some stated time, for the real benefit of a loan often accrues from getting it promptly.

When the executive has this authority to grant loans, the board should learn individually whether due prudence has been exercised or not, and this may be done by a discussive inspection, at each meeting, of all the loans granted since the last meeting. This would enable the directors to ascertain the reliability of the bank's assets, and the class of men with whom the bank is dealing.

A conservative manager will grant few loans to his relatives or special friends, and none to himself.

Then the character of the bank's customers determines very largely the reputation of the bank. This can all be determined largely by a revision of loans. The directors ought to familiarize themselves with the general business of the bank, and to do this they must regularly inspect the

books of accounts, and likewise examine and question the bank's agents.

§ 181. **Detecting Frauds.** The aggregate of the bank's loans and the debts past due are shown by the ticklers, and the manager should explain such loans and what efforts he is making to collect them. Of course the past-due debts will give the directors a good general idea of the character of the bank's customers.

The manager should also satisfactorily explain any overdraft that may have been perpetrated, for overdrafts, in this country, are seldom permitted.

Counting the money and inspecting the vaults will not usually reveal a fraud. A fraud can generally be detected only by skill equal to that employed in the concealment, and this requires greater familiarity with the business, and more labor, than the ordinary director can be expected to give.

The most reliable thing for a board of directors to do, in order to detect fraud, is to supervise the business properly and thus become familiar with the general conduct of the affairs of the bank and of the manager. A close scrutiny of the habits and expenses of the manager, and other agents, will often reveal shortcomings and peculations.

An insufficient salary sometimes induces a bank's agent to begin taking money for private use. This may be remedied by a liberal compensation for the services rendered. I do not mean that a fabulous salary would be advisable, but nevertheless it is a fact, that wealthy managers are less liable to extract money, unlawfully, than those with no property. If liberal salaries are given, and thus bank agents are prevented from expenditures beyond their incomes, they may often be prevented from fraud.

If the results of any agent's work are unsatisfactory, or the board becomes suspicious that anything is wrong, he should be promptly removed. Every man can offer excuses, which

no one can refute, yet it would be unwise to retain an agent whose conduct produces frequent miscarriages and losses. Nature does not digress from her accustomed courses, even though some men would wish us to believe that she does.

§ 182. **Powers to Discount Business Paper.** In considering the sixth clause of § 56, it has been generally held that banks have a right to buy business paper. The purchasing and discounting of paper is considered as a mode of loaning money, and a bank has a right to buy notes which are available to the borrower, as well as the borrower's own notes which are made payable to the bank. It was at one time considered unlawful to buy negotiable paper, that such purchase was not within the province of banks, but the right is no longer questioned.

Even when the word "bought" or "sold" is used in the transaction it is considered as being a loan of money by way of discount.

Banks may discount commercial paper as long as there is no contingency, but it has no right to buy or discount any paper containing any condition, such as to pay attorney's fee, if the paper is sued, etc.

§ 183. **The Highest Function of a Bank.** If, when a producer has completed an article, he could sell it for cash and realize the profit and begin over again, he would soon increase his earnings to an unlimited amount. But he cannot usually make immediate sales, and the buyer cannot usually pay cash. It is often a long process from the producer to the final payer, the consumer; and markets may be inactive and the buyer slow to buy, and often slow to pay, so that producers cannot always sell, and buyers cannot always pay. The producer requires additional capital to carry his wares until sold; and the buyer requires credit to enable him to carry the goods until re-sold. But a sale on credit is no better than carrying the goods, and the producer must have more money to produce other goods, or his busi-

ness must stop until the buyer pays. But he cannot stop a successful business; it would mean large losses and finally complete failure. He must get money somewhere to carry on the process of production; and his business furnishes the basis on which to get it. He must obtain money on the property sold. He cannot pledge the property, for it is sold and the possession vested in another; but he can pledge that which represents the property—the buyer's written promise to pay at a certain specified date. In other words, he goes to a bank and discounts the buyer's paper, and with the money thus advanced by the bank, he goes on with his business. *This is probably the highest function of a bank* in serving the commercial world.

Banks do not usually lend money on permanent improvements. If one wishes to buy lands, build factories, or make any permanent investment, a bank is not the place to seek the money; but if commerce is being carried on, or articles of commerce produced, then a bank is always ready to assist.

§ 184. George Walker, a prominent financial writer, says that "The first and most important function of a bank is, by the use of the capital which it controls, to bridge over the periods of credit which necessarily intervene between production and consumption, in such a manner as to give back to each producer or middleman, as quickly as possible, the capital invested by him in such products, in order that he may use it again in new productions or new purchases. In this way the interruption of business, which would be a public as well as a private loss, is avoided. Thus defined, banking is not only one of the most useful, but it is also one of the most safe and healthy of business operations. Its safety lies in the fact that each loan, of the character described, is based on property of intrinsic value; and it is the property which, in the last resort, pays all the loans predicated upon it in its progress of transmission from the producer to the consumer.

"It gathers value all the time and the final payer pays the

first cost and all the profits added to it. The property is the real debtor. The several makers of paper, though debtors in form, are only insurers, or guarantors, in fact.

"From this analysis of the origin of bank discounts it will be seen that the common maxim among bankers—that the safest loans are on mercantile paper—is not only justified by experience, but rests upon the simplest and clearest scientific principles."

§ 185. **Loans on Bills.** Property in the process of transportation to the markets, either domestic or foreign, with the certainty or probability of sale; goods consigned to factors to be sold, and goods already sold and on their way to the buyer, all offer one of the most legitimate modes of borrowing money. Bills of exchange are drawn against the merchandise consigned. When the bill of lading accompanies the bill of exchange it is a specific pledge of the property, for the bill of lading, protected by the insurance policies, is considered the title to the goods; these are called *documentary bills*. A large part of the cotton, tobacco, grain and produce business of this country is done by means of documentary bills. Banks buy (discount) these at one rate and sell them at a higher rate.

§ 186. **Speculative Loans.** These are such as are made on articles of commerce withheld from the market for a better price, etc. Such loans, being speculative in their general nature, should be entered into by banks with great caution. They are usually made for too long a time to depend upon to meet the bank's immediate liabilities. Enough reliable short-time paper, certain to be paid when due, and available cash, should be kept on hand to meet the drafts on the bank by customers and the other demands on the banks. *Convertibility ought to be the first requisite in the collaterals to a loan.* The test of a bank's solvency is in the speed with which it can liquidate and return the capital to the stockholders.

§ 187. **Questionable Loans.** The loans already described are, as a rule, seldom the cause of loss to a bank. There is a class, however, which often causes heavy losses, and much trouble, and this class is unfortunately becoming very common. Among these are loans on personal security and accommodation paper not secured by collaterals, and which do not represent any business transaction.

Then there are loans made for the improvement or purchase of real estate ; loans to furnish capital for corporations, and for private business. These are objectional loans ; they should constitute no part of a bank's business. A bank's proper relation to its customer is to convert his credit sales into cash, and thus enable him to continue his work of production ; but it is outside of the province of legitimate banking to furnish money to establish business enterprises.

§ 188. **Security for Loans.** The National Bank Act says that banks may loan money on personal security, and, no contingency being given, it would be inferred that no other security is competent. Judge Dillon has declared that "The words *personal security* in the National Bank Act are used in contradistinction to real security." If this be right, and it has been so held by other authorities, banks may loan on any security except real property. They then have the right to take state bonds, municipal bonds, shares of other national banks, chattels, warehouse receipts, etc., as security for a loan of money.

In fact there are comparatively few loans made with just personal security when such security is fostered and obtained as a simple personal accommodation. While this is the practice of banks, yet it is difficult to see any reason for such a view. In the case of a real bill—one given for actual existing values—the note or bill represents a past transaction, but the security is nothing more than the personal security of the indorsers. In an accommodation bill the maker wishes to secure money to make a future transaction ; but he must get

an accommodation indorsement as security. The security of the one bill is exactly the same as of the other.

What difference can it make whether a note or bill arose out of a past transaction or is immediately applied to a purchase of goods to meet the bill? With a real bill, goods have been purchased to meet the bill; with an accommodation bill, goods are to be purchased to meet the bill. One is no better than the other. A past transaction may have been just as wild and foolish as the one that is yet to be done.

§ 189. **Limitation on Loans.** In relation to the limit on loans specified in § 58, Chief Justice Ruger says: "The object of this provision of the Currency Act was to guard national banks from the hazard of loaning money in improvident amounts upon speculative and accommodation paper, but it contemplated and permitted, to an unlimited amount, the discount of paper used and required in facilitating the transfer of property and money in the transaction of the legitimate business of the country."

Accordingly, if a person makes his notes payable to the bank and, though he gets the required security, wishes to have them discounted, the amount of such discount or discounts must not exceed ten per cent. of the amount of the capital stock of such bank; but if he brings notes or other negotiable paper drawn in good faith against actual existing values and representing the legitimate business of the country, he is not limited in the amount of such discounts. Loans on accommodation paper are limited; those on real paper are not.

While this provision is intended for the guidance of the association, and though its franchise may be forfeited for violation of the law, the loan is in no sense illegal, and the association may recover of the borrower the full amount of the loan."

§ 190. **National Banks Not Government Institutions.** Before giving the general routine of the directors' meetings

" Gold Mining Co. *v.* Bank, 96 U. S., 640; O'Hara *v.* Bank, 77 Penn., 96.

we propose to notice some of the powers, rights and restrictions of banks in general.

National banks are private corporations, organized under a general law of Congress by individual stockholders, with their own capital, for private gain, and managed by officers, agents and employes of their own selection. They constitute no part of any branch of the government of the United States, and whatever public benefit they contribute to the country in return for grants and privileges conferred upon them by statute is of a general nature, arising from their business relations to the people through individual citizens, and not as direct representatives of the state as a body politic in exercising its legal and constructive functions.[v]

§ 191. **Effect of State Laws.** While national banks are purely private in their workings, yet they aid the government very materially in administering an important public service. They were designed and brought into existence by the government for this purpose, and are so employed. Each separate state has power to make and enforce its own laws, but the national banks being the result of national legislation, the state can exercise no control over them except as Congress may permit.

The state has no power to control the operation of constitutional laws enacted by the General Government.

However, a national bank organized in one state has no authority to do business in another state; its operations must be carried on at the place named in its organization certificate, and nowhere else. See § 178.

§ 192. **Regarding Dividends.** It is the verdict of the courts that when a bank has declared a dividend it cannot refuse to pay it. After declaration, the dividend becomes a debt, and cannot be withdrawn in order to increase the surplus funds, or for any other purpose.

§ 193. **Directors Not Liable for Bad Judgment.** If the directors declare a dividend for more than the amount of the

[v] Branch *v.* The United States, 12 U. S. Ct. of Claims, 281.

"net profits after deducting the bad debts," because they are bad debts, but not so considered at the time the dividend was declared, they are not held liable for such bad judgment, without bad faith.

§ 194. **May Omit to Declare Dividend.** Neither are directors liable for unearned profits, and when there is no net profit they may omit declaring any dividend at the regular semi-annual period. They are personally liable for damages at such times if they do declare any dividend and it may subject the bank's charter to forfeiture. The act would be one of mal-administration, and belongs to the same class as the purchase, by a bank, of its own shares when not necessary to prevent a loss on a debt due to it.

§ 195. **Dealing in Bonds.** It is the policy of the government to encourage the purchase and sale of its bonds and to facilitate transactions in them, for thereby their value will be enhanced and the credit of the government, in a measure, promoted. It is not probable that Congress intended to impose upon the national banks restrictions which would operate to prohibit dealing in the securities of the government in a manner usual among bankers.[w]

Judge Earl says[x]: "While the statute specifies the main things national banks may do, it does not undertake to specify all, and it does not prohibit all not specified. There is a large branch of the banking business not particularly specified—that of collecting notes, checks, bills of exchange, and other evidences of debt, for other persons. It has never been doubted that they have the right and power to do this kind of business, as forming a legitimate part of banking business."

While many banks deal in stocks and other securities, and this is often conceded to be within the powers of national banks, yet the right is much questioned.

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[w] Leach *v.* Hale, 31 Iowa, 69.

[x] Yerkes *v.* Nat'l Bank, 69 N. Y., 382.

A national banking association is not authorized to act as a broker or agent in the purchase of bonds or stocks.[y]

A national banking association cannot deal in stocks. The prohibition is to be implied from the failure to grant the power.[z]

§ 196. **Relating to Real Estate.** § 57, relating to a bank's power to hold real estate, is not generally understood. The late decisions are to the effect that real estate as security for loans does not invalidate the obligation; it renders the contract voidable, but only at the option of the government. The debtor cannot raise the objection to avoid his debt. If the bank goes beyond its authority, the government, only, has the right to deal with the institution on account of its unlawful act and may withdraw its franchise.

Many Western farmers complain that the national bank does not accommodate them with loans on such security as they have—real estate. Those who have followed the history of the National Bank Act know that such loans were forbidden for fear that banks would become great holders of real estate. Another reason was that the experience with the old state banks demonstrated that real estate was a poor kind of property for banks to possess. Real estate is not easily convertible, and convertibility should be one of the requisites of a bank's property.

If a national banking association acquires real estate which it is not authorized to take, the conveyance to it is not void, but only voidable. And the title of the association to such real estate is good until assailed in a direct proceeding by the government.[a]

The amount of real estate which a national banking association may purchase to secure a pre-existing debt is not lim-

[y] Bank *v.* Hoch, 89 Penn., 324; Weckler *v.* Bank, 42 Md., 581.

[z] Bank *v.* Bank, 92 U. S., 122.

[a] Reynolds *v.* Bank, 112 U. S., 405; Bank *v.* Whitney, 103 U. S., 99; Fortier *v.* Bank, 112 U. S., 430.

ited to the exact amount of the debt, but as much may be purchased as is necessary to secure the debt due, so long as the security of such debt is the real object of the purchase.[b]

When the purpose is to secure a debt previously contracted, a national banking association may take a conveyance of real estate worth more than the debt, and pay the difference between the debt and the value of the property.[c]

When a national banking association sells real estate it may take a mortgage thereon to secure the payment of the purchase money.[d]

§ 196*a*. **Stock of Real Estate Corporations.** If the property of a corporation should consist entirely of real estate, its stock could be taken as collateral security by a national bank for a loan.[e]

§ 196*b*. **Selling Real Estate.** There is nothing to restrain national banks from selling real estate. In fact the statute provides that they cannot hold real estate, taken in a lawful manner, for a longer period than five years. Their right to sell is unquestioned.

§ 197. **Officers.** The stipulation in the fifth clause of § 56, "to appoint officers and remove them at pleasure and appoint others in their places," is to be taken that no cashier or other officer can be hired for a certain specified time. If a person takes the position of teller, cashier, or other officer, in a national bank, he is supposed to assume such duties under the provisions of the law, and he can retain the office only during the pleasure of the appointing power.

[b] Upton *v.* Bank, 120 Mass., 153.
[c] Libby *v.* Bank, 99 Ill., 622.
[d] Bank *v.* Raymond, 29 La., Ann., 355.
[e] Baldwin *v.* Canfield, 26 Minn., 43.

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CHAPTER V.

THE PRESIDENT.

§198. The president.
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§ 198. The president is the chief executive officer of the bank, though he may not be the business manager—in fact most banks are managed by the cashier. If there be a vice-president he may assume the president's duties during the latter's absence.

The president is appointed or elected by the board of directors and may be removed by their acts.

§ 199. **General Authority.** Speaking of the president's authority, it may be said that he has but little authority, unless it be enlarged by charter, or by the acts of the board.

He is, in reality, nothing more than the president of the board of directors, and as such he has authority to perform the duties which may be devolved upon him. He has authority to preside at the board meetings and to conduct the legal proceedings of the bank, and no other inherent authority. He may, however, be given special authority to transact any of

the business of the association, and such authority may be given him by express action of the board; or, if the public is led to believe that he has authority to make agreements and contracts, he will be considered to have such authority by implication.[a]

The president may bring an action at law and employ counsel for the purpose of protecting the rights of the bank, but he is not its business manager, nor has he charge of its moneyed operations.

He has no more power of management, or disposal of the property of the corporation, than any other member of the board of directors. It is true that extensive powers may be, and quite often are, given to the president by the charter or by the action of the directors, and where so conferred, the right to proceed thereunder will exist.[b]

§ 200. **Authority by Usage.** Notwithstanding the very limited inherent authority of the president, it may be extended by usage, as with other officers. If it is the custom in a state for a president to draw and sign drafts or checks in the absence of the cashier, without special authority for that purpose, his bank will be bound by his action.

Unless expressly prohibited it would seem that the president would have as much power to bind the bank, at any time, as the cashier or other officer.[c]

§ 201. **Power to Conduct Litigation.** It is everywhere conceded that the bank's litigations should be conducted by the president. He may appear, answer and defend in suits against the bank. He may retain and employ counsel on behalf of the bank.[d] As may be supposed, the board of directors may reserve the right to conduct the bank's litigations, in which case the president has no such authority.

[a] First Nat. Bank *v.* Kimberlands, 10 W. Va., 555.

[b] First Nat. Bank *v.* Lucas, 21 Neb., 280.

[c] Neiffer *v.* Bank of Knoxville, 1 Head, 162.

[d] First Nat. Bank *v.* Kimberlands, 16 W. Va., 579.

§ 202. **Real Estate Transfer.** In a transfer of land and in executing all instruments where the bank's seal is necessary to be used, neither the president nor the cashier can act without the authority of the board of directors. The mortgaging, conveyance or disposition of the bank's property is a part of the management of the association which is confided expressly to the directors, not to the president or cashier. In no case has it been held that these officers have the power to assign a mortgage without the assent and authority of the board of directors.[e] However, if the president should execute a deed for the bank and affix its seal, this will be regarded as the seal of the bank, and the burden of proving that it was executed without authority is on the contracting party.[f]

§ 203. **Authority to Purchase.** A president, when duly authorized by express or implied authority from the board, may transfer the real or personal property belonging to the bank. He may even purchase real estate to satisfy debts due the bank. He may make such purchase in satisfaction of suspended paper, or for such purpose may take anything of value as may to him seem wise to accept.[g]

§ 204. **May Pay Bank's Debts.** In paying the bank's debts, either the cashier or the president may instruct a clerk to pay them.[h] And in the absence of the cashier the president can draw checks without special authority for that purpose,[i] even though a temporary cashier has been appointed.[j] In Alabama the president has no such authority, unless conferred by the charter or by-laws of the bank.[k]

§ 205. **Discounting.** Discounting notes is a function of the board of directors,[l] but authority to discount can be con-

[e] Hoyt *v.* Thompson, 5 N. Y., 334.

[f] Flint *v.* Clinton Co., 12 N. H., 430; Union Bank *v.* Call, 5 Fla., 409; Angell & Ames on Corporations, §§ 223, 224.

[g] Libby *v.* Union National Bank, 99 Ill., 622.

[h] City Bank *v.* Bateman, 7 Harris & John's Rep., 104.

[i] Neiffer *v.* Bank of Knoxville, 1 Head, 162. [j] Same.

[k] Gibson *v.* Goldthwaite, 7 Ala., 281.

[l] Farmers and M. Bank *v.* Butchers and D. Bank, 16 N. Y., 125.

ferred on the president, unless restrained by statute or charter.[m]

§ 206. **Powers Limited to those of Directors.** The directors cannot empower the president to do anything which they themselves cannot do. They cannot release a debt without consideration, and they cannot empower the president to release it.[n] And he could not bind himself in such a transaction.

Every person is supposed to know the general scope of the authority of the person with whom he deals; if a man deals with an officer of a corporation, and no misrepresentations are made by that officer, and that officer simply proposes to bind the corporation, and as a matter of fact the corporation is not bound, and is not bound simply because the contract is *ultra vires* of that corporation, the officer making the agreement is not bound.[o]

§ 207. A president cannot promise to pay a debt which the bank is not liable to pay. His admission does not create a contract and the bank will not be bound.[p] Nor can the president or cashier, nor both, release the obligation of a maker, indorser, or other guarantor of a debt due the bank. It is not their duty to make such contracts, nor have they power to bind the bank except in the discharge of their ordinary duties. Any conditions regarding the loaning of money must be fixed by the board of directors.[q] Nor can the president release his own liability when he is the maker or indorser of a note held by the bank. He cannot act in such an antagonistic capacity.[r]

§ 208. **Cannot Certify his Own Checks.** Should a president certify his own check the act would be such a palpable excess of authority that no holder could compel the bank to

[m] Bank *v.* Bennett, 23 Mich., 523. See § 182.

[n] Hodges *v.* F. N. Bank, 22 Gratt., 51.

[o] Holt *v.* Winfield Bank, 25 Fed. Rep., 812.

[p] Henry & Co. *v.* Northern Bank, 63 Ala., 527; Branch Bank *v.* Hunt, 63 Ala., 876.

[q] Bank of the U. S. *v.* Dunn., 6 Pet., 51.

[r] Gallery *v.* Nat'l Exch. Bank, 41 Mich., 169.

pay the amount.[s] The holder would have distinct notice by the face of it that the acceptance was improperly and irregularly made. It would be patent on the face of the paper that the acceptance was a fraud. It would be a violation of official character for personal benefit, and he could not possibly thereby bind his bank.[t]

§ 209. **Paying Interest.** Unless special authority is conferred by the board, a president has no right to agree to pay interest on deposits. It is no part of the ordinary business of banking to receive deposits of money on interest, and this can be done only when the directors direct such a course.[u]

§ 210. **Compromise.** If there be any matter which more than any other falls within the scope of the duty of directors it is that of compromising debt, because it not only affects the prosperity of the institution, but may involve its very existence. Necessity does not require the president to exercise his judgment alone as to it; indeed the proper management of a bank dictates that he should not do so, and it is not, therefore, a matter incident to the performance of his duty.[v]

§ 211. **Authority Less than Directors'.** The qualified authority of directors to make contracts with their bank does not extend to the president, or other officers. When these are made between one or more of their number and the bank all or several of the directors are supposed to have knowledge of the proposed terms to take part in the deliberations preceding its adoption. But such an exercise of authority by several directors is very different from the exercise of it by a president, or other officer, without the knowledge of the board. It is true that the president does many things in which he is interested as well as his bank, which stand on the firm ground of ratification, and which are done without any authority

[s] Rhodes *v.* Webb, 24 Minn., 294.

[t] Claflin *v.* Farmers and Citizens Bank, 25 N. Y., 298.

[u] Fulton Bank *v.* N. Y. & Sharon Canal Co., 4 Paige, 127.

[v] Wheat *v.* Bank, 5 S. W. Rep., 305; see also § 163.

whatever, or are repetition of acts, perhaps, which have been done many times and always with the bank's approval.[w]

§ 212. **Imputation of Knowledge.** Whenever information is given to a president for the purpose of transmission through him to his bank, the law will regard the bank as having the knowledge, whether the president has communicated it or not.[x]

Notice to the president that stock standing on the books of the bank in the name of a person is held by him in trust for another, is notice to the bank. There is no other officer to whom it could be made with more propriety. It would be equally available if made to the cashier or to a director. In the same way the president's knowledge of the record of a mortgage would be imputed to his bank. And especially the notice of a suit, delivered to him, or any other of the bank's officers, would be regarded as given to the bank.[y] Even when not acting officially, or when away from his bank and not attending to its business, he ought to have the interests of his bank in mind, and when he acquires information which would bind his bank if conveyed to him in an official manner, it ought not to be less effective if acquired in another way.[z] It makes no difference where he receives information, it is his duty to transmit it to his bank. It is his duty to do so however or whenever acquired, because his knowledge binds the bank.[a]

§ 213. **Usage and Ratification.** These have an important part to play in the acts of a bank president. Possessing but little inherent authority, his authority to do the business of the bank requires a very great enlargement. While this is done by general and special action of the board, his authority has also been enlarged by usage, while numerous acts subsequently receive the assent of his co-directors in various ways.[b]

[w] Bolles on Bank Officers, § 350.

[x] Washington Bank *v.* Lewis, 22 Pick., 24; National Bank *v.* Norton, 1 Hill, 575.

[y] Porter *v.* Bank of Rutland, 19 Vt., 410; Savings Bank *v.* Holt, 58 Vt., 166; Eastman *v.* Coos Bank, 1 N. H., 23.

[z] Fulton *v.* N. Y. & Sharon Canal Co., 4 Paige, 127.

[a] Village of Pt. Jarvis *v.* Bank, 96 N. Y., 550.

[b] Norawetz on Priv. Corp., § 537.

No formal action is positively necessary to ratify the acts of the president. If the directors are in the habit of giving their assent separately when not assembled as a board, such action will bind the bank.[c] Far more often, however, ratification is inferred from an informal acquiescence in his acts, or approval of them.[d]

§ 214. **Bonds.** The president, being one of the chief stockholders and president of the board of directors, and therefore a man of prominence in the community, is not required to give bonds to secure the bank should he fail to faithfully perform his duties. Of course there are cases where bank presidents have gone wrong, but these are, fortunately, very few when compared to those who are true to their trust.

§ 215. **Power to Secure Debt.** The earlier view of the limited authority of a president is changing. One reason for this change of view is that he is a far more active officer than he was formerly, especially in the smaller banks and outside the large cities. Once, the cashier was the chief manager of these institutions very generally, but now the president is often chosen with the expectation that he will thus serve. It has therefore been decided that to secure a debt he can take property, cattle for example, even though they may be encumbered by other liens. "At any rate, after having had them and received the property, it cannot, while enjoying the fruits of the transaction, be absolved from the performance of its obligations to others assumed by its officers as a means of getting possession of the property, on the plea that its acts were *ultra vires*." And in such a transaction the letters written by the president concerning it may be introduced against the bank in a legal controversy relating thereto.[e]

§ 216. **Duty to Sign.** The president, with the cashier, must sign all documents conveying real estate, all certificates

[c] Bank *v.* R. & W. R. R. Co., 30 Vt., 159.

[d] Hoyt *v.* Thompson, 19 N. Y., 207.

[e] Bank *v.* Emery, 78 Texas, 498; Bolles' National Bank Act, § 55*a*.

of stock to the shareholders, and all circulating notes. He, or the cashier must sign and verify all reports which are to be made by the association to the Comptroller of the Currency. He also verifies the installments of stock, statements, returns for taxation, and all papers made to the Comptroller.

§ 217. **Salary.** This is a matter which varies a great deal. In small banks, where the business is entirely managed by the cashier, and the president has but little more to do than the other directors, he sometimes charges nothing for his services. In large banks, where all his time must be given to the work and many duties devolve upon him, he commands a large salary. Some bank presidents receive as high as fifteen thousand dollars a year.

In large city banks it is supposed to be desirable that the president shall possess an independent income and should not be engaged in any other business, as this might divert his attention from the bank, and in the case of personal embarrassment he might be tempted to seek relief from the means in his official hands. Notwithstanding this general opinion many banks are presided over by merchants.

The failure of many banks is due directly to the fact that the president and directors have outside interests, often with large capital invested, which render their views narrow and partial. Their business requires greater attention at critical times and the bank must suffer the loss of their counsel; less attention is given to the paper discounted, or the board neglects entirely to attend to the discounts; greater responsibilities are thrown on the cashier and the other officers, and the downward road is struck.

CHAPTER VI.

THE CASHIER.

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§ 218. **Appointment.** The directors have power to appoint a cashier, who may hold office for any length of time. The cashier is usually a shareholder and often a director of his bank. It is presumed that if he holds stock in his bank he will take more interest in its affairs than if he had no pecuniary interest.

§ 219. **Official Bond.** The habit of taking bonds from the executive officers of banking institutions is almost universal. These are to indemnify the association against loss by default of the officer in the transaction of the business of his office, or by reason of the temptations offered him. The amount of such bond is determined by the directors. The cashier usually gives a bond for from ten thousand to thirty thousand dollars.

§ 219*a*. **Continuance of Bond.** If a cashier gives a bond conditioned on the faithful discharge of his duties, no time being given, though he may be re-elected at the end of the year, his bond continues until he is qualified by a new bond. The statute provides that the cashier shall retain his office until removed, or until another is appointed in his stead. He is an officer of the bank and not of the directory. He is an officer created by charter, not by by-law or ordinance of the directors. He is the officer and agent, within the scope of his powers, of the corporation. The charter and the institution hold him out to the public as such. His duties do not spring out of his election by the board of directors, but out of the nature and functions of his office as defined by the general law. He is a statute officer of the corporation, lawfully em-

powered to carry the contracts of the bank into execution,[a] and his election for a definite term by the board will not affect either his term of office or his bond.

§ 220. A cashier was appointed and gave bond; the next year he was re-appointed, but gave no new bond. He continued in office, without further bond, for five years, when he was guilty of defaults. His two appointments had been "for the year ensuing." The statutory provision is that a cashier "shall hold office until another is appointed." If he is to continue in office he is also to perform his official duties, and the bond will remain in force. Though the election was for the year ensuing, the office is not, by law, annual, and he could hold it until another was appointed, by virtue of the general law. Because the directors hold office by virtue of an annual election does not in any way affect the cashier's term of office. The cashier's office not being annual, his election to an office which he already held, and would continue to hold, without an election, was only a manifestation of the directors' intention that he should continue to hold. The directors must have held this opinion, as evidenced by their not requiring a new bond. In this case the words are general; there is no recital; the office itself is not annual. Chief Justice Shaw, delivering the opinion of the Court, held that the sureties on the bond had never been released, and must pay.[b]

§ 221. **Approval of Sureties.** The board of directors must approve the bonds of the officers. Any one, including a director, may become surety on the cashier's bond, providing the board of directors approve such surety.

It is not necessary that national banking associations shall signify their approval of the official bonds of their officers by memoranda entered upon the journals or minutes of the directors. The acceptance is to be presumed from the retention

[a] Casey *v.* Giles, 10 Ga., 9; Bank *v.* Bank, 1 Parson's Select Cases, 240; Bissell *v.* Bank, 65 Pa., 415.

[b] Amherst Bank *v.* Luther Root, 2 Metcalf Rep., 522.

of the bond, and from the fact that the officer is permitted to enter upon or continue in the discharge of his duties.[c]

§ 222. **Revocation.** A surety may, at pleasure, revoke his guaranty, without cause, upon proper notice, but the right must be exercised reasonably.[d]

§ 223. **Manager.** As has already been stated, the cashier is usually the manager of the affairs of the bank. In city banks the president is sometimes the manager, but in the great majority of cases the cashier is the chief executive. He cannot, however, transact all the business of the bank, for the law authorizes the directors to make discounts and execute other contracts. A cashier is allowed to present himself to the public as habitually accustomed to make payment for its bills and notes payable to other persons; to make payment for bills and notes discounted by the directors; to receive payment for all debts due the bank; to receive money on deposit and to pay the same to the order of the depositors; to have custody of the bank's books, bills, notes, and other evidences of debt due it, and indeed all its movable property; to make entries in its books and keep its accounts and a record of its proceedings.

§ 224. In many banks these duties are performed in part by tellers, clerks, or assistants, but generally under his superintendence, and he might at any time assume the performance of them and perform them, if able to do so, without assistance. His true position appears to be that of a general agent for the performance of his official and accustomed duties. While acting within the scope of this authority he would bind the bank, although he might violate his private instructions.[e]

Unless the cashier's operations are restricted by the directors, he is, for many purposes, looked upon by law, and is treated as if he was the whole body, which he has power to

[c] Grover *v.* Bank, 10 Bush., 23.

[d] La Rose *v.* Bank, 102 Ind., 332.

[e] Franklin Bank *v.* Steward, 37 Me., 519.

bind, even by his tortious acts.[f] "The cashier is the executive of the financial department of the bank, and whatever is to be done, either to receive or pass away the funds of the bank for banking purposes, is done by him or under his direction; he therefore directs and represents the bank in the reception and emission of money for banking objects."[g]

§ 225. **Importance of a Good Manager.** "The best banking system may be defeated by imperfect management; and, on the threshold, the evils of an imperfect banking system may be greatly mitigated, if not overcome, by prudence, caution and resolution."

§ 226. **Choosing the Manager.** The conduct of a manager ought to be characterized by great circumspection. He ought, unquestionably, to be chosen solely on account of his qualifications as a banker, and not because he is a rich man, a man of fashion, or a man with an extensive circle of friends. His experience in banking operations should be the first consideration, and other qualifications may be considered afterwards. In this way a stimulus is given to persons of talent, who may be looking forward to the reward of a life of toil and drudgery; and thus merit is patronized and protected. A wise choice should be made at the beginning, and no one promoted over the head of another, though a uniform system of regular promotion should be practiced.

§ 227. **Engagement in other Business.** A banker should be diligent in attention to the affairs of his bank. Notwithstanding the idea that people once had that business men were mere machines that worked like automatic figures, no successful business can be carried on without great care and attention. A bank manager, being allowed a competent salary, cannot be justified in occupying his time and energy with any other employment while absent from his duties in the bank. Of course

[f] Badger *v.* Bank, 26 Me., 428; Bank *v.* Norton, 1 Hill, 561; Caldwell *v.* Bank, 64 Barb., 340; Bank *v.* Haskell, 51 N. H., 116; U. S. *v.* City Bank, 21 How., 356; Merchants Bank *v.* State Bank, 10 Wall., 604.

[g] Asher *v.* Sutton, 31 Kan., 389.

he will be expected to add to his mental acquirements and endeavor to broaden his education in every way possible and not be narrow in his views. The bank is entitled to his chief attention.

If he undertakes to manage or control some other trade or profession, or take an active part in politics or public affairs, he is sacrificing more or less of the time which he owes to his bank. His time belongs to the bank, and if he does not give it he falls short of being a good manager.

Next to being secret and cautious, a manager ought to be decided in all his measures, free from party influence and firm in his purpose. A habit of promptitude and decision is very essential to the proper regulation of the business of a bank, and may be acquired by forethought and circumspection. Nothing makes a manager look more silly and contemptible than a hesitating, dubious and capricious manner. His answers ought to be prompt and satisfactory; he should be sufficiently acquainted with the business to at once say whether an act can be done or not, and he should appear free from restraint, and not disposed to alter an opinion once formulated.[h]

§ 228. **Salary.** Next to having a dishonest manager, the greatest evil is to have one that is badly paid. If he is known to be poor, his advice will have less weight in the board room; the directors will treat him with less respect; the needy class, when refused discount, will insult him by threatening to complain to the directors; and his inferior officers will be less prompt in their obedience. But worse than all will be the effect produced upon his own mind. He cannot be so efficient a manager when badly paid, as he would be if he received a liberal remuneration. The amount of his salary is the only tangible means by which a manager can judge how far his services and character are appreciated. It is not the money alone, but the feeling of which the money is an indication,

[h] Philosophy of Joint Stock Banking, by Geo. M. Bell.

that produces an effect on the mind. It is a law of our nature that the kindness, liberality and generosity of others will produce corresponding feelings in ourselves. And it is another law of our nature, that when the mind is under the influence of such feelings it is capable of intellectual efforts of a higher order.[1]

§ 229. **Manager Should be Respected by the Board.** The manager, from his experience and the importance of the office he fills, is entitled to the kind consideration and entire confidence of the board of directors. He is selected by them to occupy an arduous and highly responsible position, and ought to be rewarded, not merely by a satisfactory pecuniary remuneration, but with the respect and friendship of the directors and be considered on an equal footing with them. Without this confidence and respect he cannot take his place at the board meetings and feel free from restraint and discuss matters pertaining to the bank with composure; nor can he appear before the customers with that satisfaction which proper banking demands. In that degree in which the manager is respected and well-spoken of by the directors, will respect and confidence be extended to him, and consequently to the establishment, by the public, and a good opinion entertained of their judgment and discernment in his selection.

§ 230. **Watching the Markets.** A bank manager should not only understand men and be able to judge of character, a knowledge so essential to a successful business career, but he must keep a keen watch on the movements of trade; on the strength and weakness of those to whom money is loaned, or who may become borrowers. A bank's prosperity depends on the wisdom with which its resources are loaned. The trade newspapers should be carefully read, and information relating to borrowers be sought in every way. Careful vigilance and a good memory in this connection will serve to reduce the losses on bad loans to the minimum. When a number of fail-

[1] Practical Treatise on Banking, by James W. Gilbart, p. 125.

ures occur in a particular trade, they should be carefully looked into, and if possible the reasons which led to them searched out. Great care in accumulating information of this kind will produce such results as to more than pay for the trouble entailed. Many banks have scrap books in which all information regarding trade is carefully kept.

§ 231. Every bank should know as much as possible regarding the financial condition of its dealers, and to do this many banks keep a "Customer's Credit Book," in which everything of importance regarding the customer's business is written. The mercantile reports and the papers are carefully scanned and all kinds of business investigated. Sometimes banks send persons to make a special examination into the condition of the affairs of a customer. Of course these special inquiries must be made with great secrecy, for should a customer discover that his business was being investigated by the bank, he would, in many cases, cease dealing with the bank and might thereafter use his influence to injure it. This, however, should not prevent a bank's executive from a proper regard for his duties to the bank. The successful managers are those who are most diligent in conducting these investigations and in watching the complicated movements of trade.

A summary of important facts, important interviews, conversations, statements, reports, etc., should be written, or pasted in a large scrap book, as already suggested. This book should have a voweled index for easy reference. All this will take time, and in many banks the manager cannot attend to it, and a *credit clerk* is employed, whose almost exclusive duty is to seek the information required in every quarter and record the same in the "Customer's Credit Book."

§ 232. **Object of Banking.** A banker ought to have and keep in mind the true object of banking, for "correct sentiment begets correct conduct." The primary object of banking consists in making pecuniary gains for the stockholders by legal transactions. Good banking is, of course, a great

benefit to society, but this consideration should not induce a banker to disregard the interests of the bank. It may benefit society for one man to build houses, for another to build factories, and for many others to get permanent loans, but the good of society must be considered as secondary to the good of the association.

"The honor and pecuniary prosperity of his bank should constitute the paramount motive of every banking operation. A violation of this principle produced, in 1837, a suspension of specie payment, which was visited on bank stockholders by a legislative prohibition of dividends, and visited on banks and bankers by a general obloquy. The banks suspended, that the debtors of the bank might not suspend; or worse, the banks suspended that the debtors might be spared the pecuniary loss that would have resulted from paying their bank debts. Conduct so suicidal was probably fostered by the pernicious union, in one person, of bank director and bank debtor, a union from which our banks are never wholly exempt; nor are they always exempt from a union still more pernicious, of bank president and cashier in one person. With this inherent defect in the organization of our banks, we can the more readily understand why, in 1837, the banks assumed dishonor to shield their debtors. * * *

"Every suspension of specie payment might have been prevented had the bankers performed their duty to their respective banks, by prudence in the quality of their loans and vigor in the enforcement of payments.

§ 233. **Regulation of a Bank's Capacity.** "The subordination of the honor and interests of a bank to the avarice or necessities of its managers, or dealers of any description, is productive, not of suspensions only, but of every disaster which usually befalls banks; and unless such a subordination can be prevented by the officer who acts specially as a banker, no man who respects himself should continue in the position, when he discovers that such a subordination is in progress.

The owner of a steam engine regulates his business by the capacity of his engine, but should he regulate it by the necessities of his customers, he would probably burst his boiler. A shipowner regulates his freight by the tonnage of his ship; a contrary course would sink it. So every bank possesses a definite capacity for expansion by which bank dealers can regulate their business; but when a bank regulates its expansion by the wants of its dealers, or the persuasion of its friends, it will probably suspend, or be otherwise unprofitable to its stockholders."[1]

§ 234. **Risk on Loans.** When a bank lends $10,000 for two months there is a probability of a loss of $10,000 without a possibility of a greater gain than about $170. No charge is made for the hazard, only what the use is worth. For this reason banks do not generally lend money without the security of at least two persons who are deemed good for the entire debt. In the cities it often happens that the indorsement of only one person is required, but the good banker will err on the side of too much rather than too little security.

§ 235. **Regarding the Indorser.** In considering an indorser, a banker may properly reason that, aside from the indorser's ability to pay, the borrower will want to protect a friend who has thus favored him, and will probably do all in his power to pay his own loan. Again, an indorser will usually foresee when financial embarrassment threatens the borrower and will at once appeal for protection. This will warn the bank to make efforts for collection. These benefits are not derived from indorsers who are connected in business with the borrower; hence the good banker will not take indorsers who are financially connected with the borrower.

The morals of men have a great deal to do with the probability of their paying. An immoral borrower will care less for the protection of his indorser, and an immoral indorser will struggle against paying an unprotected indorsement. An

[1] Bolles on Practical Banking, p. 27.

indorser's property ought to be large in proportion to his indorsement, to avoid trouble in the event of the borrower's failure to pay.

§ 236. "Men who are prone to extravagance in their domestic or personal expenditures rarely possess the amount of property they are reputed to possess. Men expend to be thought rich more frequently than they expend by reason of being rich. The rich are usually more inclined to parsimony than extravagance. Anyway, persons who practice parsimony are in the way of becoming rich, whatever may be their present poverty; while persons who are profuse in expenditures are in the way of becoming poor, though they may possess a present opulence."[k]

New enterprises, untried ventures, or lines of business which often result in failure, etc., are hazards which a good banker will seldom assume.

Money invested in merchandise or goods, in the course of the borrower's business; notes received on the sale of such goods; drafts drawn on goods consigned to be sold for the account of the borrower—all these are securities which are less hazardous, and representing actual existing values, they furnish the means of their own payment and are the class of loans which bankers seek.

§ 237. **Kiting.** A country merchant draws a time draft on a merchant in Chicago, and obtains thereon a discount at some country bank. When the draft becomes payable the Chicago merchant will obtain the means for paying it by drawing a time draft on the country bank and getting a discount thereon in New York. This is called "kiting." Kiting is practiced in notes and checks as well as in drafts, and between persons living in the same as well as in different places.

A country dealer will sometimes have some one, without capital, in Chicago, on whom to draw, or to act as acceptor.

[k] Bolles on Practical Banking, p. 29.

There is no limit to the amount which the false acceptor will accept, so the dealer may carry his operations to the extent of his ability to find lenders. A banker should suspect the solvency of any one who resorts to any of these unbusiness-like practices to obtain money—in fact a good banker will not only refuse to handle such paper, but also refuse to deal further with the person who resorts to such operations.

§ 238. **Cannot Avoid Loss.** Bankers are human, and being liable to err the same as other beings, they cannot be expected to avoid all loss. "Eternal vigilance is the prime virtue of a banker," and if this is exercised it will reduce losses to the minimum. To gain is the business of banking, and, as the principal source of legitimate gain is loaning money, the bank must lend to the extent of its ability—erring on the side of too many loans rather than too few. If timidity or indolence limits his loans in advance of necessity, he may injure the community which he is supposed to benefit, by pecuniary assistance, and injure the stockholders by unnecessarily abridging the profits. Of course he must have an eye to the future and provide for coming debts, but meanwhile lend all that the condition of his funds and prospective resources will warrant.

§ 239. **Governing the Profits.** If he can make good profits without much expansion he may be more restricted in his loans than otherwise. To be strong in funds and rich in profits is next to impossible; hence, the more gains which a banker wishes to make the poorer in funds he must consent to become. Extremes, however, are dangerous; it is the happy medium—the golden mean—which produces satisfactory results; and if a banker can keep funds enough for safety, he had better forego excess of funds and receive an equivalent in profits. Excess of loans is better than excess of funds; and if these are of undoubted solvency, prompt, and short, it will work a relief to the bank. But scarcity of loans cannot, by any means, cure the scant profits of the shareholders. Banks

are rarely injured, therefore, by an excess of discounts. When banks fail, they do so from the quality of their loans, not from the quantity.

A banker should keep his funds active. To refuse to loan money because the rates are too low is to give evidence of his own incapacity for business. If high rates cannot be obtained, it is still a gain to lend at low rates, while it would be a loss not to lend at all.

§ 240. However, most bankers have more business than they can assume and they are thereby enabled to select the most profitable and reject the less profitable ones.

In speaking of the profits of banking, we mean gains that proceed from some other source than the interest allowed by law for the use of money. These are derived most largely from circulation and deposits; hence loans are advantageous to a bank in proportion as they increase the circulation and deposits. Loans to persons who keep their money deposited with another bank yield no profit to the lender except the interest on the loan; hence they are not so profitable as loans to borrowers who will take bank notes of the lending bank and circulate them over the country in the purchase of agricultural or other products.

So, on a loan to one of its depositing customers, the bank receives interest on its promises to pay the borrowed money when the borrower shall from time to time draw for the same. The bank does not part with its money at all—it simply lends its promise to pay whenever the borrower may demand it. And when a deposit is thus drawn from a bank a draft is not necessarily paid in money, but in bank notes, which may thereby obtain circulation. This advantage is a usual attendant of the deposits of some customers, and makes their accounts doubly beneficial to a bank.[1]

§ 240*a*. Suppose that dealers deposit $50,000 to their accounts; the money now belongs to the banker to do with it as

[1] Bolles on Practical Banking, 32.

he may elect. He now has $50,000 in cash and owes on depositors' accounts $50,000. Now dealers would not deposit money if they intended to draw it out immediately, though some may want to draw out a part of their funds. But as one draws out another will probably deposit an equal sum, and thus a banker's balance of cash will not vary more than one-thirtieth part from day to day. This being the case, if a banker retains one-tenth in cash to meet the demands of his customers this will be sufficient for all ordinary times.

Then if the banker retains $5,000 for his customers' demands, he has $45,000 to trade and make a profit by. Now it must not be supposed that the banker employs this amount in purchasing business paper and that he makes a profit only on the $45,000. A banker does not buy paper with money; this is the method employed by bill brokers. The banker sees that $5,000 in money is ample to support $50,000 of liabilities in credits, and it is therefore evident that $45,000 will support liabilities to several times that sum in credits.

Now the banker buys commercial paper, but he does so just as he bought his $50,000 of deposit cash—he buys it with credits, deducting at the same time the discount, or profit, agreed upon.

If the banker buys $200,000 of business paper at three months and the interest or discount agreed upon is eight per cent., then the profit on these bills is $4,133.33. In buying bills for $200,000 he creates credits, debts, or as we term them, deposits, to the amount of $195,866.67.

Now the banker has added $195,866.67 to his liabilities and $200,000 to his resources in the way of bills of exchange, etc. The balance, $4,133.33, is his profit, which is eight per cent. on $200,000, not on his $45,000 of cash. This is the correct method of banking. A bank is a manufactory of credits.

§ 241. **Dishonest Gains.** "Honesty is the best policy," but an honest man will be honest because it is right. The stockholders cannot afford to retain a banker who is willing

to make dishonest gains. A man who will act dishonestly to make gains for the shareholders will also collude against them to make dishonest gains for himself.

§ 242. **Duty to Know Borrowers.** In cities the borrowers are generally known to some of the directors or the cashier, but in country banks the borrowers, or their indorsers, are residents of distant places and unknown, personally, in the locality of the bank. A country banker, who should insist on personal acquaintance with the makers and indorsers of all his discounts, would not find employment for all his capital. In vain will such a banker insist that he ought not to make loans to persons of whom he has no knowledge. He should acquire it. It is indispensable to his bank. He is bound to know a sufficient number of persons to enable his bank to employ its capital advantageously. Every note, therefore, that he rejects for want of knowledge is ostensibly a slight reproach on him, while every note that he rejects or accepts by means of his knowledge of the parties is a tribute to his industry and vigilance.

Thus we find that country banks are often liable to loss by forgeries. Many of the parties who deal with country banks write poorly, and their signatures bear but little evidence of genuineness, even when the banker is partially acquainted with them; for the same person will write differently at different times, and is continually changing ink and pens. However, if the danger is greater, the greater the caution which the banker must exercise. He must exercise all the vigilance possible, or he will not stand excused from subsequent losses.

§ 243. **Regulating Future Resources.** In order for a banker to lend to the extent of his ability he must be well acquainted with the abilities of his bank. To do this will require a constant study of the bank's statement of resources and liabilities, which is corrected daily. He must, of course, always be ready to meet the demands of his customer's drafts and must reserve enough cash for that purpose. But a banker

must not be satisfied that to-day's funds will meet the wants of the day, he must feel assured that he will be in the same position on all future days. This may be accomplished by having before him, at all times, a detailed list of his prospective resources, showing what notes and acceptances will be payable to the bank daily, for some weeks or months ahead. With this list he will be able to judge whether his prospective resources will need the aid of his existing unemployed funds, or whether he may loan them. Such a list may be furnished by a well kept "tickler." This is a book in which all the debts due the bank are classified and entered under the date of their respective maturities.

Should a banker discover that his resources will be small during the month of, say, December, he can, with this list, overcome the difficulty by discounting, in the preceding months, paper that will mature in December. Thus he is enabled to always provide the bank with all the necessary funds.

§ 244. **Prospective Loans.** A banker must, at all times, be master of his resources. To enable him to do this he should never promise a prospective loan, or make any loans with promise of their renewal. The more he keeps uncommitted the better he will be able to accommodate himself to the ever varying circumstances. Banking is subject to enough uncertainties without unnecessarily aggravating them by prospective agreements.

§ 245. **Robberies.** A banker must employ tellers and clerks, to whom he can intrust his vaults and their contents. Robberies are often committed by such persons, and sometimes remain long concealed. While a banker cannot be responsible for all such acts, yet he is responsible for the exercise of practical vigilance, and this will do much in the way of security against such mishaps. No one steals property to hoard, and its use, therefore, can seldom be wholly concealed, and this is the clew which the vigilant eye can trace to the

plunderer. "Nearly every plunderer is a prodigal, and may thereby be detected; nearly every plunderer is needy, and should therefore be suspected." The banker should ever be on the alert, or he is answerable for the safety of the bank. The sentinel whose post happens to be surprised by the enemy may escape punishment as a criminal, but he can rarely gain commendation for vigilance, or escape censure for carelessness.

§ 246. **Overdrafts.** To permit overdrafts is to make loans without indorsers and without interest. It is, moreover, to empower a debtor to control your resources. No mode of lending can be more inconsistent with safe banking, and it should never be permitted. Still, every man who keeps a bank account can draw for a larger amount than is to his credit and the banker cannot supervise the payment of his checks. A vigilant banker will, however, provide vigilant tellers and clerks. A vigilant teller will soon learn whom he must watch; but, after all, an overdraft may be perpetrated, and, whether by accident or design, the bookkeeper should immediately report the occurrence to the banker, who will act thereon as his judgment shall deem proper.[m]

§ 247. **Enforcing Payment.** No business can escape doubtful debts, and banks do not furnish an exception. Usually the most favorable time to force payment is when the debt becomes payable. Then the debtor has expected to pay, and if he is then in default no reliance can be placed on his promise of future payment. Then, again, he is generally less offended by legal enforcement of payment when it is promptly enforced, and he knows the creditor is disappointed, than he is after the default has been silently acquiesced in by long forbearance. Additional security, when necessary, can be obtained with less difficulty at the time of the default than after the debtor has become reconciled to his dishonorable position. His credit is better now, and therefore new indorsers

[m] Bolles on Practical Banking, p. 38

easier to obtain than subsequently. A good banker will be quick to act on these principles.

§ 248. **Should Not Deviate.** There are always persons who will ask a deviation from the usual rules of banking, and who propose such relaxation of rules because of some alleged pressing emergency. If such relaxation is fraught with any insecurity, any violation of law or official duty, a banker should never submit, even though it promises unusual gains to the bank. A banker should know his own business and be exact in its execution. While he adheres to firm and settled rules and principles, Providence is a guarantee for his success; but when he deviates, it is a guarantee for his failure.

§ 249. **The Criterion of His Merits.** A banker should possess enough legal knowledge to make him suspect what may be defects in proffered securities, so as to submit his doubts to the directors. He must in all things show himself to be eminently practical. Any one can tell an undoubted insufficient security from an obviously abundant security, but neither of these constitutes any large portion of the loans that are offered to a banker. Security practically sufficient for the occasion is all he can obtain for the majority of the loans he must make. If he must err in his judgment of securities he had better reject fifty good loans than make one bad debt; but he must endeavor not to err on the extreme of caution or the extreme of temerity; and his tact in these particulars will, more than any other, constitute the criterion of his merits as a banker.

He ought to be fully acquainted with the banking laws under which he is working. He must watch for every item of legislation bearing on his business. He must read the reports of cases at law, and the decisions reached; for in these will be found the most important information bearing upon his responsibility and duty as cashier.

A banker ought to understand thoroughly every book in the bank. In fact he should understand every detail of the

business. He should be a student of his own business at all times.

He is expected to decide all questions of action in the many cases which are brought to him by the heads of the various departments. He is supposed to know the rights and duties involved in every case, and to decide safely and promptly on all matters. He also spends much of his time consulting with dealers and the general public.

§ 250. **His Signature.** The cashier, in the matter of his signature, is the chief representative of the bank. It is difficult for a bank to go behind it or do anything without it. Whenever he signs, in his official capacity and within the limits of his authority, the bank is irrevocably held, and his authority, as banks have discovered in cases where his signature has been contested, is very wide.

The cashier signs, in connection with the president, or vice-president, all the circulating notes issued. This may be done, however, by the printer stamping on the bills the *fac-simile* of his signature, of which he is the custodian, and which, in its place, holds the bank fully responsible. Many national banks use the printed signature. The signatures of the government officials, on all paper money, are printed.

He signs the checks of the bank, and its indorsements; and all reports and returns made to the government; drafts, certificates of deposit, certificates of stock, and, in fact, where the bank is to sign, it is the cashier's place to sign, for he is its chief executive.

§ 251. **The Correspondence.** One of the cashier's first duties, on reaching the bank in the morning, is to attend to all the correspondence of the bank. In small banks he does this without assistance, but where the correspondence is heavy his assistant cashier and corresponding clerk attend to all the more mechanical part of the correspondence, but still every letter and reply, except those of simple routine, must be submitted to the cashier. Those which the cashier must

answer, called "special letters," such as applications for discounts, proposals for new customers, complaints, asking opinions about persons or bonds, etc., are laid on his table in the early part of the morning.

Some banks have a rule that the cashier shall sign all letters which leave the bank, but this would be next to impossible in a large bank, for the correspondence ranges from one hundred to two thousand letters a day. Most of them are mere forms, statements of inclosures, and may be easily answered, printed forms being used for both statement and inclosure. All answers to special letters are copied in a letter book.

§ 252. **Daily Routine.** The following description of the usual daily routine of one of the best conducted banks in New York city may not be out of place here: After examining a dozen or so papers to which the bank subscribes, the cashier looks around to see that all the clerks are on hand and preparing the exchanges for the Clearing-house. If a vacant place is seen, then it is presumed that a clerk is absent, and somebody must be found to supply his place. In the morning almost all the clerks, except the bookkeepers and heads of departments, are engaged in preparing the Clearing-house exchanges. In that bank the letters are so numerous that a large force is necessary in order to get the exchanges ready in time, and any vacancy must be speedily filled. Sometimes the cashier is obliged to assist in such work. If a clerk is not on hand by ten minutes past nine he is regarded late.

The special letters are brought to the cashier, and those requiring immediate attention are answered at once; others at a more convenient time. Then letters containing remittances are brought in from the bookkeeper's desk. Those requiring immediate attention are laid one side, and the instructions they contain are entered in a special letter book for the use of the corresponding clerk. For instance, if an advice concerning a payment is requested, it is the duty of the corresponding

clerk to give the necessary advice. The last duty which the corresponding clerk performs in the day is to examine his special letter book for the purpose of assuring himself that all letters requiring special attention on his part have been answered.

When the directors meet, the cashier usually performs the services of secretary, and one of his most important functions is to give advice to the directors. He examines loans secured by collateral, and when any collateral is found to be such that the bank does not longer wish to hold it, he calls in the loan. He carefully examines the balance books and directs all the details of the bank, keeping himself informed concerning the business done. Such are the leading features of his daily business, interspersed with frequent calls and interruptions.[n]

§ 253. **New Customers.** A bank does not differ much from other lines of business in as much as it is always trying to increase its operations. The cashier is always seeking to increase his deposits, for on these he makes the greater part of his profits. To do this he is ever on the alert for new customers. But however much he may desire these, he will not open an account with persons who are not properly introduced and identified. He must know the character of his dealers. Persons introduced by a clerk of the bank will be looked upon with disfavor, and many banks will refuse to open an account without additional introduction. Otherwise such a person might be a confederate in some plan with the clerk to defraud the institution. The introduction of a merchant by another merchant is usually satisfactory. If not engaged in any business the applicant may produce facts relative to his condition which would satisfy the cashier without further inquiry.

When the cashier decides to open an account with an applicant, he has him sign his name in a "signature book." And all that an applicant says of himself and all that can be found

[n] Bolles on Practical Banking, p. 74.

out about him then or afterward is recorded in the "dealer's credit book," already described.

§ 254. **Sources of Authority.** There are six sources from which a cashier may receive authority:

First.—From statute or charter. A cashier has certain powers which he possesses by virtue of his office. Such authority cannot be abridged by action of the directors or stockholders.

Second.—From usage and the general course of banking business. When he acts within the scope of the general usage, practice and course of business conducted by the bank, he will generally bind the bank in favor of a third person possessing no other knowledge.[o]

The ordinary usage and practice of a bank must be supposed to result from regulations by the board of directors, to whom the charter and by-laws submit the management of the bank and the direction of its officers. The cashier and other officers are held out to the world as having authority to act, and their acts within the scope of the business of the bank would bind the bank, as already stated. Any other rule would make it hazardous for any one to deal with a bank officer.[p]

Third.—From necessity a cashier performs many acts which are not defined by formal action of the directors. This does not make his power to bind the bank any less.

Fourth.—His authority may be inherent. A cashier is generally intrusted with the notes, securities, and other funds of the bank, and is held out to the world as its general agent in negotiations, management and disposal of them.[q] While the courts have not always clearly distinguished between this source and that of custom and practice, the difference is of no special importance.

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[o] Bank *v.* Bank, 10 Wallace, 604.

[p] Minor *v.* Bank, 1 Peterson, 70; Bank *v.* Dandridge, 12 Wheat., 64; Bank *v.* Bank, 1 Bliss, 146.

[q] Wild *v.* Bank of Passamaquaddy, 3 Mason, 505; Ryan *v.* Dunlap, 17 Ill., 45.

Fifth.—From direction of the directors. A cashier's duties are defined by law, and all persons are supposed to know them. "Ignorance of the law excuses no one;" but, with a bank, this does not pertain to duties defined by the directors. If a cashier's duties are not founded on usage or statute, but wholly on by-laws, then a person dealing with him is required, at his peril, to ascertain what authority has been conferred on him.[r]

Sixth.—By ratification. His independent acts may subsequently receive the ratification of the board of directors.

§ 255. **Certificate of Deposit.** A cashier has authority to issue an ordinary demand certificate of deposit, of which the following is a form:

DES MOINES NATIONAL BANK.

$935.40. DES MOINES, IOWA, May 17, 1894.

This is to certify that John A. Kasson has deposited with this bank Nine Hundred, Thirty-five & 40-100 Dollars, payable on return of this certificate properly indorsed.

No. 1. V. F. NEWELL, Cashier.

A time certificate of deposit is one payable at a specified time, and banks cannot issue them whenever there is a statute declaring that banks shall not make notes, bills or contracts for paying money at a fixed time with interest.

Issuing certificates of deposit is an incident of every day's business in a bank, and, while they are contracts of the bank, they do not require the president or vice-president's signature. The signature of the cashier or of the receiving or paying teller is considered sufficient to bind the bank.

Unless ratified by the directors, a cashier's certificate of deposit to himself is void. Such a paper shows by its face that it is irregularly done, and no one can claim to be a bona fide holder without notice of the cashier's want of authority to issue it. He cannot represent both sides of a contract. "It takes two to make a contract," and the law will not permit an

[r] Rice *v.* Peninsular Club, 52 Mich., 87.

agent's private interest to come between him and his principal.[s]

§ 256. **Authority to Borrow Money.** It has been decided in many cases that a cashier has power to borrow money for the bank and to execute its notes therefor. This authority is implied from his official designation as cashier, and it is not necessary to prove that such authority has been conferred by the board of directors, even by ratification. His acts done in the ordinary course of the business actually confided to him are *prima facie* evidence that they are within the scope of his duty.[t]

If he has authority to borrow money he may also pledge the bank's property as security. This would seem to be a necessary incident from the primary power.[u]

§ 257. **Certification.** A certified check is one on the face of which the cashier, or other proper officer of the bank, has written or stamped the word "Certified," "Good," or "Good when properly indorsed," or words to that effect, and written thereon the amount, and his signature. This is in effect the association's written promise to pay, and the power to do such acts is regarded as inherent in the cashier by virtue of his office. Such acts will bind the institution for the amount certified, whether exceeding the drawer's deposit or not, if the holder does not know that the deposit is less than the certification. The National Bank Act prohibits national associations from certifying for a greater amount than the drawer has on deposit at the time of certifying, though should an officer do this the bank will be bound, though the cashier may be held liable to the bank under the law.

If, however, a holder should know that the drawer had no

[s] Lee *v.* Smith, 84 Mo., 304; Bank *v.* Bank, 95 U. S., 557.

[t] Bank *v.* Perkins, 29 N. Y., 554; Creswell *v.* Lanahan, 102 U. S., 347; Coats *v.* Donnell, 94 N. Y., 168; Barnes *v.* Bank, 19 N. Y., 152; Donnell *v.* Bank, 80 Mo., 165; Bank *v.* Wheeler, 21 Ind., 90; Bank *v.* Bank, 4 McLean, 208.

[u] State *v.* Davis, 50 How., 447.

funds on deposit at the time of certification, even though the cashier certified that he had, the bank would not be liable.

One who deals with an agent has no right to confide in the representation of the agent as to the extent of his powers.

Some banks give a check of the bank—a cashier's check—instead of certifying a dealer's check.

A cashier cannot certify his own checks, for the reason that thereby he would be making a contract between himself and his bank, and thus be acting as both principal and agent, which is not within the law.[v]

He cannot certify an irregular check nor a post-dated one.[w]

§ 258. **Authority to Indorse the Bank's Paper.** With the right to sell and convey, a bank has the power to transfer its negotiable paper, and such transfer is the duty of the cashier. At one time his power to indorse was questioned, but it is now well understood that he has such power. And whenever he has authority to indorse, the law will presume that the transfer was proper. In other words, when nothing appears on the face of an instrument or any of the circumstances connected with the assignment, to throw suspicion thereon, the purchaser need not make inquiry concerning the cashier's authority to indorse.[x]

The cashier need not advise the directors when he indorses the bank's paper—he binds the bank without their sanction.

The cashier nor any other officer has any power to bind the bank on an accommodation indorsement;[y] still, as the cashier is the proper person to indorse the bank's paper, a bona fide holder, before maturity, is not bound—when he takes it thus properly indorsed—to ascertain whether the bank owned it or not at the time of the indorsement, and the

[v] Lee *v.* Smith, 84 Mo., 304; Bank *v.* Bank, 95 U. S., 557.

[w] Pope *v.* Bank, 57 N. Y., 126; Bank *v.* Bank, 52 Barb., 592.

[x] Robb *v.* Bank, 41 Barb., 586; Blair *v.* Bank, 2 Flippin, 111.

[y] Bank *v.* Globe Works, 101, Mass., 57; Hall *v.* Auburn Turnpike Co., 27 Cal., 255; Bank *v.* Ins. Co., 50 Conn., 167.

bank will be responsible.[a] The one rule is just as necessary for the protection of the innocent holder as the other is for the protection of the bank.

§ 259. **Indorsement for Collection.** A bank is not liable as an indorser when the cashier indorses a note simply for collection.[a] But when he indorses it in the regular way and sends it for collection, and the person receiving it uses it for his own use, the bank will be liable as an indorser.[b]

When an indorsement is made to a cashier it is regarded as an indorsement to his bank, and suit may be brought thereon in the name of the bank. Notes transmitted from bank to bank, indorsed by and to their respective cashiers, have always been regarded as bank, and not individual, paper.[c] The indorsement has never been required to be in the bank's name. If the suffix "Cashier," "Cash'r," "Cash.," "C'r," "Cr.," is added to the cashier's name in an indorsement, it will be regarded as official. The fact that the indorsement was made by the cashier in his official capacity is sufficient to show it was made on behalf of the bank, and the holder has the right to prefix the name of the bank if he so desires.[d] His official name has become synonymous with the bank itself, and paper payable to the cashier of a designated bank, or to his order, may be sued by the bank, without indorsement.[e]

A cashier has authority to indorse the bank's paper, but this does not give him authority to release an indorser. None of the conditions of the contract can be changed by the payee and indorser.[f]

§ 260. **Authority to Collect Debts.** A cashier's authority to collect the debts due the bank is as well known as his authority to indorse.[g]

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[a] Bank *v.* Bank, 36 N. Y., 125; Houghton *v.* Bank, 26 Wis., 663
[a] Bank *v.* Bank, 29 N. Y., 619.
[b] Bank *v.* Bank, 29 N. Y., 619.
[c] Lacey *v.* Bank, 4 Neb., 179; Bank *v.* Ferris, 17 Conn., 271.
[d] Claflin *v.* Bank, 36 Barb., 540; Bank *v.* Bank, 19 N. Y., 312.
[e] Nave *v.* Bank, 87 Ind., 204.
[f] U. S. *v.* Bank, 21 How., 356; Thompson *v.* McKee, 5 Dakota, 172.
[g] Watson *v.* Bennett, 12 Barb., 196

The delivery of notes for collection to an attorney, or other agent, by the cashier, is one of his customary duties, and it was long ago decided that he had authority to perform such acts.[h]

§ 261. **Compromise.** Unless the power is expressly given by the board, a cashier has no authority to alter, change or compromise a debt due the bank.[i] He has no inherent authority to compromise or release a debt without consideration; and whenever he has such authority its source is usage unless directorial. In those states in which the usage has not been established, compromise can be effected only by the directors.[j]

§ 262. **Authority to Discount.** It is, generally, no part of a cashier's duty to make discounts; this is the duty of the directors. Many banks, however, confer such authority on the cashier. There are occasions where the cashier, notwithstanding the regulations to consult committees and directors, is justified in making discounts without such consultation. Should the board or committe not meet, or should they neglect their duties, the cashier cannot be regarded as negligent in not consulting them concerning the business of the bank. It would be quite impracticable for a cashier to leave his place of business as each transaction requiring attention occurred, to look up persons employed in other lines of business and consult them in regard to such transactions.[k]

Where he has no authority to discount, he could not, of course, bind the bank by a promise to make a loan.[l]

An agent cannot bind his principal to an agreement to which he is a party, so a cashier cannot bind the bank by discounting his own note.[m]

§ 263. **Re-discounts.** Should a banker discover that he has discounted more paper than he can well carry without

[h] Eastman *v.* Coos Bank, 1 N. H., 26.

[i] Ecker *v.* Bank, 59 Md., 291.

[j] See §§ 163, 210; Bolles on Bank Officers, § 487.

[k] Bank *v.* Burt, 93 N. Y., 233; Bolles on Bank Officers, §§ 182, 205, 493.

[l] Moores *v.* Bank, 15 Federal Rep., 141.

[m] Rhods *v.* Webb, 24 Minn., 292.

danger of loss or financial embarrassment, he may re-discount a part of such paper in another bank. While this is legitimate, it is usually considered as evidence of bad management, and bad management is a forerunner of failure. But a cashier has an implied power to procure a bona fide re-discount of the paper of the bank and his acts will bind the association.[n]

§ 264. **Transferring the Stock.** When requested by the proper parties, it is the duty of the cashier to make transfers of stock, and in doing so he acts for the bank, not for the stockholders. Consequently he is in no way personally liable to the stockholders for money given in payment for stock. The stockholders cannot sue him, but must sue the bank.[o]

In connection with this duty is the issuing of new certificates to purchasers. And when shares are sold for taxes, the cashier can legally issue a new certificate of stock to the purchaser, who will be entitled to the accruing dividends, whether the tax for which the shares were sold was rightly assessed or not.[p]

§ 265. **Application of Payment.** If the debtor owes a bank different debts, the cashier may apply his money in the bank to whichever debt he may choose, if the creditor should make no application. A cashier has authority to receive all moneys and to apply them subject to the direction of the board. Verbal directions from the directors is sufficient.[q]

§ 266. **Mistakes Corrected.** If a cashier makes a mistake and credits a dealer, in his pass book, with a sum in excess of the deposit actually made, he may have it corrected. While an entry in a pass book is the bank's receipt for the money deposited, yet it is well settled that a receipt is only an evidence—not proof—of payment, and may be explained by parol evidence.

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[n] Bank *v.* Bank, 95 U. S., 557; see § 448.

[o] Brown *v.* Adams, 5 Bliss, 181.

[p] Smith *v.* Bank, 4 Cush., 1.

[q] Bank *v.* Benedict, 15 Conn., 437.

So, too, he may have a mistake in his accounts corrected, even after the bank becomes insolvent and is in the hands of a receiver.[r]

§ 267. **Limitations of a Cashier's Powers.** A cashier has no power by virtue of his office to bind the bank, except in the line of his ordinary duties, and the ordinary business of a bank does not comprehend a contract made by a cashier—without delegation of power by the directors—involving the payment of money not loaned by the bank in the customary way.[s]

The above is a statement of the general rule. In particularizing we shall merely mention some of the things which a cashier cannot do:

1. He cannot act when the bank is the adverse party.
2. He cannot draw checks on his correspondent for his own personal use.
3. He cannot sell the bank's property.
4. He cannot sell the bank's real estate.
5. He cannot promise to pay a debt not owed.
6. He cannot promise to pay a check without funds.
7. He cannot promise to pay a depositor after the bank is declared insolvent.
8. He cannot transfer notes to him in payment.
9. He cannot purchase stock for the bank.
10. He cannot assign a non-negotiable note.
11. He cannot discharge a debtor without payment.
12. He cannot keep a surplus from a sale of securities.
13. He cannot revive a debt barred by the statutes of limitation, etc.

Other limitations on the cashier's powers are given in the Bank Act. Statutory regulations of the different states may further limit his authority.

§ 268. **The Bank's Liability for the Cashier's Acts.** The general rule is stated thus: "A bank is liable for the acts

[r] Beers *v.* Maynard, 1 Bailey's Eq., S. Car., 168.

[s] Martin *v.* Wells, 110 U. S. 7.

of its cashier which are done within the limits of his authority. Although a banking corporation is compelled to act by others, yet, when these are part of its organic machinery, like its cashier, it is as much responsible for their omissions and commissions as is a natural person who employs assistants in the execution of any commission.''[t]

Action may, therefore, be sustained against a bank for the acts of its cashier, or other officers, in performing its ordinary duties, or by special direction of the directors.[u]

The bank is liable for correct entries in its books of account, and for a proper account of general deposits, and, if from a lack of such correct entries any person be injured, he would have a remedy.

§ 269. **Responsibility for Deposits.** Deposits are of two kinds: *special* and *general.* A special deposit consists of a particular article, or articles, left with the bank to be called for when wanted. The bank becomes the trustee for the depositor and is liable only for gross negligence. If an officer should rob the bank of a special deposit the bank would not generally be liable, for the reason that the act was in no way connected with the officer's employment by the bank. Of course if the bank had reasons to believe that he was stealing and did not interfere, it would be held responsible. But banks do not warrant the honesty of their servants, assuming only that they are skillful and faithful in the performance of their duties.[v]

A general deposit is money deposited with a bank to be checked out from time to time as the depositor may desire. This is considered to be a kind of a loan; for the money no longer belongs to the depositor, as in a special deposit, but becomes the property of the bank, and the deposit is a loan. The relation of bank and depositor becomes that of a debtor and creditor, and subsequent loss of the money does not

[t] Bank *v.* Bank, 1 Parsons Select Cases, 180.

[u] Rehoboth *v.* Rehoboth, 23 Pick., 139.

[v] Foster *v.* Bank, 17 Mass., 479.

relieve the bank from its obligation to pay. An officer could not steal a general depositor's money, for he has none; it is the bank's money, and the bank owes the depositor as in the case of any other debtor.

§ 270. **Responsibility for other Acts.** Banks are also generally liable for neglect on the part of their officers in giving proper notice to the parties to a note in their hands for collection, on the failure of a maker to pay.[w]

Should a cashier draw a draft on another bank, contrary to the statute, to conceal an embezzlement, his bank would be liable therefor. The bank is responsible for all his acts within the scope of his authority, and such act is certainly within his authority; and if he defrauds the bank, it must bear the loss and look to him for reimbursement.[x]

Should a cashier misapply money collected on a note, or draft, the misapplication by him is a misapplication by the bank, and it must make good the amount.[y]

If a cashier or teller should take a check and put it on the cancelling fork, this would not prevent him from declining to pay it upon learning that the drawer's funds were insufficient, or the check was irregularly drawn.[z] The same rule would, no doubt, apply to cases where the check is stamped "paid" before the officer discovers that anything is wrong. See § 321.

If, through inattention, or otherwise, the directors permit a cashier to pursue a particular line of action for a considerable period of time, without objection, the bank will be bound for his acts. For example, the directors of a bank permitted the cashier to conduct the business without interference for several years, and was regarded as having conferred on him authority to transact any business which he was not prohibited by the bank's charter from transacting.[a]

[w] Foster *v.* Bank, 17 Mass., 479.
[x] Bank *v.* Bank, 16 Gray, 534.
[y] Town of Concord *v.* Bank, 16 N. H., 260.
[z] Warwick *v.* Rogers, 5 Mann & Gang., 340.
[a] Caldwell *v.* Bank, 64 Barb., 333.

A cashier may bind his bank even outside of his usual authority, by sanction of the directors. Such authority need not be in writing, but may be by parol, or implied by circumstances. If he transacts business which he ought not to transact, the directors must express their disapproval, or it will be considered a tacit approval and satisfaction on their part. They are presumed to know what is taking place in their bank and third parties will not be compelled to suffer loss or injury on account of their inaction.[b]

Likewise, a cashier's authority and his sphere of action may be narrowed by restrictions voted by the board. But, in transactions coming within the usual sphere of a bank cashier's duty, it will have to appear that the third party knew of the restricted powers of the cashier, or, when he goes beyond that limit, the bank will be liable the same as though no restrictions had been given.[c]

§ 271. **Liability for Misconduct.** Cashiers, and other officers of a bank, are agents, and are liable to their principal for misconduct the same as other agents. If they fail to exercise reasonable skill and ordinary diligence, and the bank suffers in consequence, they are liable to the bank. Should a cashier misapply or wrongly convert any of the money or property of the bank, the bank would be liable to third parties, but the agent would be liable to the bank.

If the directors neglect their obvious duty, this will not excuse the cashier from neglecting his duty. Thus, if a bookkeeper should commit some wrong, the cashier, if negligent in supervising his work, would be liable, even though the directors might by due diligence have discovered the wrong.[d]

If the directors should, by vote, authorize the cashier to commit a fraud and deprive the stockholders of their interest, he would still be liable for such acts. The directors may del-

[b] Martin *v.* Webb, 110 U. S., 7

[c] Bank *v.* Bank, 10 Wall., 604.

[d] Batchelor *v.* Bank, 78 Ky., 435.

egate authority to the cashier to transact such business as they have power to transact for themselves, but they have no power to commit a fraud on the stockholders, or any one else, and so they cannot authorize the cashier, or any one else, to do it for them.[e]

A tort is defined to be a civil wrong or injury, and a cashier is liable to his principal for all his tortious acts.

If the president is the managing officer and the cashier is acting attentively and prudently, under his directions, the cashier will not be liable.[f]

§ 272. **Liability for Subordinates.** The cashier is not an insurer of the honesty and truthfulness of those who occupy subordinate positions in the bank, and, while it is his duty to supervise and control the affairs of the bank and its officers under him, in the discharge of their duties, he is required to exercise only ordinary diligence and skill. He is not required to examine by actual inspection every entry made by those under him, but his care extends to a general supervision of the books and affairs of the bank; and when it is shown that he has exercised such ordinary diligence in the control of his subordinates, and in the supervision of their work, he has discharged his duty. Thus, if the teller and bookkeeper should embezzle money from the bank and cover it up in such entries that it would require extraordinary diligence to discover the fraud, the fault cannot be attributed to the cashier, unless he had knowledge of the fact that such frauds were being perpetrated.[g]

If the directors should direct a subordinate to do any act, which properly belongs to the cashier to perform or supervise in its performance, and such subordinate should neglect such performance, the cashier would not be liable.[h]

[e] See Minor *v.* Bank, 1 Pet., 46.
[f] Bank *v.* Ten Eyck, 48 N. Y., 305.
[g] Batchelor *v.* Bank, 78 Ky., 435.
[h] Bank *v.* Comegys, 12 Ala., 772.

§ 273. **Various Duties of a Cashier.** 1st. A cashier should never cease to study the workings of his bank. Information should be sought from every source, and especially from the minor officers of the bank. The clerks, being in constant contact with the routine of their divisions of the work, will be able to make suggestions that will add very materially to the success of the institution. A cashier who is so thoroughly experienced and so learned in his work that he can afford to slight the hints and suggestions of a corps of good clerks and tellers is on the highway to failure.

2d. A cashier should never reprove or find fault with any of his subordinates in the presence of customers, and usually this need not be done in the presence of other clerks.

3d. He should see that all his officers treat every customer with due courtesy. He should set a proper example in this respect in his intercourse with his subordinates.

4th. The cashier should know at all times where his bank stands and where it is going in its financial career. When the day's business is over he should know how the totals compare with yesterday's totals. This may be accomplished by a "Statement of totals for Cashier" that may be furnished by the bookkeeper.

5th. The cashier has charge of the banking rooms, and it is his duty to see that they are kept in proper order, and that the public desks are supplied with the proper materials for customers' use. He attends to the taxes, and repairs, and the collection of sub-rents, and takes charge of the entire building. If the bank rent their rooms, he attends to paying the rent, and sees that the proper repairs are made. Neatness and order are characteristic of a good cashier.

6th. The cashier is responsible for the care of all the cash, securities, and all the valuables of the bank, and therefore has special custody of the vaults and strong rooms. He should see that the bank has ample accommodations in this respect and that they are kept in the best condition. If he does not

attend personally to the locking and unlocking of the vaults, he is expected to use the greatest caution in deputizing work of this kind.

7th. A complete list of the bank's depositors, with their addresses and other items of information, will be of great help to cashiers of large banks. The arrangement should be alphabetical, so that reference may be made quickly. There are often many depositors of large banks who are not likely to be remembered, and this list will be of great service, and many cashiers find it exceedingly useful. In making it, enough space should be left between the alphabetic letters to add new names.

§ 274. **Bank Inspection.** In § 19 we find that some persons consider that the freedom which is allowed, by the law, to state banks is an advantage. This can hardly meet with the approbation of honest men who believe in doing right and keeping within the dictates of law and order.

We have also shown (§ 16) that national banks are the most perfect in existence.

What has made the present system so popular among bankers and level headed business men? It is manifestly the system of bank inspection. People who have money to deposit naturally want to put it where it will be perfectly safe, and experience has taught them to put it in a national bank in preference to a state or private institution. They easily ascertain from statistics that there have been fewer disastrous failures among national banks than among any other class; they know that national banks are under governmental supervision and examination, and they feel safer in consequence.

Many sneers are cast at government reports and examinations, and we are told that they show nothing of the real condition of a bank's affairs. Perhaps like the most of human things they are a long way from perfection, but, in spite of their deficiencies, with all their faults and inadequateness, they are the chiefest cause of the high confidence with which national banks are regarded over all the country.

It takes a vast amount of mismanagement to seriously wreck a bank, but a very little stealing and dishonesty, if left to grow, will send the concern and everybody in connection with it to bankruptcy. All hail! then, we say, to any system of inspection which decreases the chances of rascality—and the more of it the better.

No honest man should object to an examination of his doings when they so directly affect public welfare as do those of bankers. Bankers ask the custody of other people's money, and should be willing to accord them the greatest possible measure of safety in return for the confidence.

Inspection is a preventive, not a cure. Bankers have great responsibilities and great temptations, and it is a kindness to them, as well as to their customers, that dishonesty should be made as difficult as possible.

Publicity is not detrimental to sound nor to successful banking. If there is something weak or rotten anywhere about, it is quite natural that it should seek to escape the light. The banker who objects to reports because they give away the secrets of his business, is scaring at shadows, unless there is a "secret" about it of which he has good cause to be ashamed. At least that is the way other people look at it.[1]

"The national banking system far surpassed the expectations of its founders. So far as it was wanted as a means of marketing bonds it was a failure, because it came into successful operation too late; but, even as furnishing a currency, it is now ceasing to be useful, because the nation's bonds, by which the notes are secured, are fast disappearing. The public therefore, after seeing one proposal after another for a new kind of security for the note-issues thrown aside, assume that when the 4 per cent. bonds (due in 1907) are gone, no security for the notes will be devised, and that the system will disappear *in toto*. This assumption, it is clear, is based on the idea that the note-issues are essential to the existence of the banks; an

[1] C. A. Murdock in *The Financier*, May 16, 1892.

idea which we see to be wholly unfounded. The great question as to the best medium of exchange for the country is one thing, separate and apart from the best system of banking included under the heads of discount and deposit.

"Independently of its perfect system of issues, the national banks have proved the best the country has ever enjoyed. This means that for nearly thirty years the business interests of the country have been interweaving their operations with those of a good banking system, and trade has been accordingly steadier. Many firms establish private banks for discount and deposit, but mainly because they escape the requirements for publicity of accounts and examinations exacted of the national banks; but, in the interest of the depositors and the public, the more they know of a bank's condition the better. The national banking system is, therefore, democratic, protecting the rights of the weaker shareholder and depositor. Should the national banking system be destroyed by ignorant legislation, the distresses arising from a variegated state bank system would be a convincing demonstration of the superiority of the system now existing. It stands to reason that a concentration of publicity and attention to one unified system of banks will afford greater security than a multiplication of systems, each governed by the varying whims of state legislatures, which usually regard a bank as an offense to society."[j]

§ 275. **Taxation of Bank Shares.** While we have given (§ 142 to § 151) the provisions of the National Bank Act on taxation, yet the subject is deemed to be of so great importance that we here present a further elucidation of the matter.

"The authority to tax shares in national banking associations," says Judge Stone,[k] "for state purposes is uniformly held to be derived from the act of Congress which confers the power." The power is conferred with limitations, (§142) and these cannot be misunderstood. The first was intended to

[j] Prof. J. L. Laughlin, in Chautauquan, Oct., 1892.

[k] Maguire *v.* Board of Revenue, 71 Ala., 412.

prevent unfriendly discriminating assessments, thus discouraging investments in the shares of national banks. The state may tax the shares for the support of its government, but not at a greater rate than that of other moneyed capital.[1]

The capital stock cannot be assessed, but only the shares, and against their owners, the same as other property. A state statute providing for "the taxation of all shares of moneyed corporations," will include the shares of national banks.

The movable property, and assets of a national bank, as office furniture, safes, etc., are not taxable.[m]

§ 276. **Higher Valuation.** It has not been attempted to tax national bank shares higher than other moneyed capital, but some states have authorized an illegal valuation of them. It is contended that they may set the value higher provided they tax both kinds of property at the same rate. But the courts[n] hold that the words "at greater rate than is assessed upon other moneyed capital in the hands of individual citizens" refer to the whole process of assessment, and that the shares of national banks must not be assessed at a higher valuation in proportion to their real value than other moneyed capital, or the act of Congress will be violated.

§ 277. **The Shareholders, not the Bank, are Assessable.** The assessment must be made against the shareholders, not against the bank, nor can an assessor compel a bank officer to give a list of the names of the shareholders, nor can he assess and enforce the same against the property of the bank on account of refusal to give such names.

[1] The term "moneyed capital" is used to denote ready money or capital invested in banking, or shares of stock or other interests owned by individuals in all enterprises in which the capital employed in carrying on its business is money, and where the profit of the business is from the use of money. It includes money invested in loans, discounts, or in securities for the payment of money, and is thereby distinguished from personal property.

[m] Bank *v.* Young, 25 Iowa, 311; Hubbard *v.* Supervisors, 23 Iowa, 130.

[n] Boyer *v.* Boyer, 113 U. S., 685; People *v.* Weaver, 100 U. S., 539.

A bank may, however, be required to pay the taxes assessed against its shareholders. This may be done by statutory enactment, but the bank will not be liable for the taxes unless it has in its possession dividends or other property belonging to its shareholders. Such a statute has been enacted in Kentucky,[o] and in an Iowa case[p] the court remarked that while the Iowa statutes did not require national banks to do this, yet such a statute could be enacted.

§ 278. **Where Shares Must be Assessed.** The Bank Act (§142) says: "That the legislature of each state may prescribe the manner and place of taxing all the shares of national banks located within the state, subject only to two restrictions:" First, regarding the higher rate of taxation, "and second, that the shares of any national bank owned by non-residents of any state shall be taxed in the city or town where the bank is located, and not elsewhere."

This last clause means the state where the bank is located, either at the place where the owners reside or at the place where the bank is located, as the legislature of the state may elect.[q]

National bank shares are, by the act of Congress, personal property, and every owner takes them subject to the taxing power of the state, and every non-resident, by becoming an owner, voluntarily submits himself to the jurisdiction of the state wherein the bank is located, for all purposes of taxation on account of his ownership. This money invested in the shares is withdrawn from taxation under the authority of the state in which he resides, and submitted to the taxing power of the state where, in contemplation of law, his investment is located. The state, therefore, within which a national bank is situated, has jurisdiction, for the purposes of taxation, of all shareholders of the bank, both resident and non-resident, and of all its shares, and may legislate accordingly.[r]

[o] Bank *v.* Commonwealth, 9 Wallace, 353.

[p] Hershire *v.* Bank, 35 Iowa, 272.

[q] Buie *v.* Com., 79 N. C., 267.

[r] Tappan *v.* Bank, 19 Wallace, 490; Bank *v.* Smith, 65 Ill., 44.

However, a state may require national bank shareholders to give notice to their respective banks every year of their residence.

§ 279. **Other Regulations.** The personal property of an insolvent national bank, in the hands of a receiver, is exempt from state taxation, the same as before his appointment, though the shares, if they have any value, may still be taxable in the hands of their owners.

The provisions of the Bank Act (§§ 136, 137 and 138) regarding visitorial powers, will protect bank officers in withholding bank books from state officials who may wish to inspect them for the purpose of getting information regarding the deposits of taxable persons.

If an illegal tax is collected it may be recovered.

When a rule or system of taxation is adopted by those whose duty it is to make assessments, that is, an illegal or unfriendly discrimination against national banks, such persons may be restrained by injunction from collecting such taxes.

A tax collector cannot seize the property of a bank to pay the taxes due from shareholders, but if the tax remains unpaid until a dividend on such shares is declared, the state, by proper legal proceedings, can compel the bank officers to appropriate such dividends to the payment of the tax on such delinquent shares.

[1] Tappan *v.* Bank, 19 Wallace, 490; Bank *v.* Smith, 65 Ill., 44.

CHAPTER VII.

THE PAYING TELLER.

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§ 280. **Some Advice to Bank Clerks in General.** Before giving the detail of the different clerks' duties we wish to offer a few words to bank clerks in general.[a]

When the bank closes its doors at three o'clock the work but begins, so do not expect to go into a bank and find nothing to do. I have seen young men in banks hurry to get through their work; their main effort being to get out. They had no thought of their duties, while others will work and "peg away" until a late hour doing what others had left undone. If you would insure success in your undertaking, whatever it may be, let nothing divert your attention from it.

A bank should always "strike" a balance before the clerks leave the bank. Some banks do not always do so. If they have not sufficient force enabling them to do this, the officials are guilty of gross neglect in not procuring the requisite assistance to attain this object.

Banks are supposed to make no mistakes, and they should make none. While it is wrong for depositors to depend upon the bank to keep their books, yet they do, and a depositor will often run into the bank to make inquiry regarding his balance, and the books should always be kept up so you can at any time give him a correct answer. Then the way to succeed is to be attentive to business and put your heart in the work. The young man that does not will soon find his place filled by another. If a man has not attended to what he commenced, it will almost always be found that he has been attending to something else. If he expects to gain promotion he must stick close to business.

§ 281. **Neatness and Order as a Requisite.** The duties of a bank clerk have been variously defined. He can make himself useful in many ways, one is by keeping his desk in trim when he has nothing else to do. What a contrast we find sometimes in visiting different banks. One bank will be

[a] § 280 to § 282, inclusive, is the gist of an article written by Fred Ward, of the Seattle, (Washington), National bank. Mr. Ward is one of the best financiers and one of the most enterprising bankers on the Pacific coast.

as neat and attractive as a parlor at home, which should always be the case; the bank is the home where the young man spends the greater part of his life. In other banks you you will find the floors have not been cleaned for months, sometimes for years, cobwebs in every corner, tobacco stains, cigar stumps, blackened walls, dusty corners and books, letters and papers piled promiscuously from one end of the counter to the other, while there is rubbish of all kinds scattered around the room. No wonder the young man wants to get out of such a place. Make your office attractive, not for appearance alone, but it would be healthier to have your floors well scrubbed, the walls cleaned, and pure atmosphere to breathe rather than the filthy accumulations of months and years. Then an attractive office and banking room attracts the attention of your patrons, and this attracts business.

Keep your check stands well supplied with good pens and clean blotters. When a stranger comes in or a person who is not familiar with the ways of banking, show him where to find these little items and make it as easy for him as possible. So there is always opportunity for doing in a bank.

§ 282. **Save up a Part of Your Salary.** It may seem very discouraging sometimes to work along month in and month out on a salary, but if you are not born rich think if there is any way out of it. You must work, and if you do your work well you stand a better chance of receiving a reward for it than the young man who does not. The reward does not always come when we think we should have it, but it will come sooner or later, and before undertaking any enterprise or starting out for yourself, if you have a good position and are treated well, stick to it.

But it would be well for you to lay aside something, and it is only by saving that you can expect to become rich. A clerk receiving six hundred or a thousand dollars salary a year does not, unfortunately, consider himself poor, and so he lays by no money. It is a mistake. Let him consider that he will one

day be sick or disabled, or out of work, or marry, and he will then realize how poor he really is. A young man must look at himself as a married man and the father of a large prospective family and provide accordingly.

Money lays eggs faster than hens. They who have it know how prolific it is. Above all things, then, a poor man should seek to become a capitalist. If his income is six hundred he must live on four hundred and lay by two hundred. What if his income is but four hundred? He must live on three hundred and lay by one hundred a year. If but three hundred, then he must lay by at least fifty. This is what the rich man tells us.

§ 283. **The Position.** The paying teller ranks next to the cashier. He is often called the first teller, and is one of the most important officials of a well regulated bank. When the cashier is promoted the paying teller usually succeeds to his place, though many seem to think that the general bookkeeper and the corresponding clerk ought to have an equally good chance for the office.

As indicated by his title, he is the disbursing officer of the bank. He is, in truth, the cashier of the bank, for he has under his control the cash of the bank and pays all demands on it for money. In England he is called the paying cashier.

The position is one which requires a man well versed in the business of banking. He should be keen and skillful, posessing all the requisites of a thorough financier. He ought to be quick and accurate at figures; quick and accurate at counting money and making change; a rapid and legible writer; possessed of quick perception in the recognition of faces, names and signatures; self-reliant, with excellent judgment; patient, with plenty of good nature.

The road to the position of paying teller is up a long ladder of apprenticeship. It is the only way. Like all other positions of honor and trust, it requires unceasing toil and indomitable energy to reach it; and still more and harder toil and

energy to carry it to a higher plane of progress in the rushing tide of the world's advancement.

§ 284. **Bond.** The paying teller must give bonds for the faithful performance of his duties, in an amount next to that of the cashier. The amount of such bonds is usually from five thousand to ten thousand dollars. The other clerks usually give bonds also, in amounts according to their respective positions. These bonds do not cover losses by misjudgment or neglect, but only fraudulent transactions. The regulations regarding the paying teller's bonds are similar to those of the cashier.

§ 285. **Salary.** The fact that the paying teller receives a salary second only to that of the cashier is a sure indication of his rank in the line of promotion. His salary is larger than that of any other clerk, and the general bookkeeper's is next. His salary is larger because he is intrusted with more funds and his responsibility in scrutinizing signatures and paying money is very great.

§ 286. **Keeping the Cash.** The paying teller is nominally responsible for every dollar of the bank's cash, though this responsibility is not in all cases and under all circumstances fully enforced.[b]

He has the custody and is charged with the disbursement of the bank's funds. In some of the large banks he may have in his keeping several millions of dollars, but at all times and in all banks he has control of most of the money.

In large banks the responsibility of caring for so much money is often considered too great for one man, and the vault is divided into compartments. Of these the paying teller has two or three, the cashier one, and the receiving teller one; sometimes the note teller, the discount clerk, the collection clerk, and the loan clerk, have one each. In a bank where the paying teller has three compartments, two of these have two locks each, and the other only one. In two of these compart-

[b] Patten on Banking, p. 12.

ments the combination of one lock is known only to the cashier and of the other only to the paying teller. In these two compartments is kept the greater part of the bank's money, and they cannot be opened without the knowledge of both paying teller and cashier. In the third compartment, which has only one lock, the paying teller keeps his balance of cash, which, changing from day to day, must necessarily be under his control. The cashier knows every combination, excepting those of the paying teller.

Except when the paying teller is sick, or an investigation is to be made, or fraud is suspected, no one ever invades his compartments of cash. If the cashier was accustomed to going to the cash and a loss should occur, it would be very difficult to trace. The paying teller has sole charge of his compartments, and he alone is responsible when a loss occurs.

Upon reaching the bank at 9 o'clock, he unlocks his compartment and the porter assists, if necessary, in carrying to his desk the money which is likely to be needed for the day's business. He then locks his compartment and returns to his desk.

§ 287. **Some Suggestions Regarding Combination Locks.** A few hints may be given here which will add security to the business and save much time for those who have combination locks to attend to. The slots in all the tumblers must be in line to open a combination lock. If one of them is out of place, the safe is locked until it is replaced. Many use the "day lock" which is to shut the door, turn the dial a little to the right or left so as to fasten the bolts. To unlock it, turn the dial back until it stops. The "day lock" gives a thief one chance in two to unlock the safe. Now if the dial is turned a short distance beyond this, so that if turned either way continuously, it will lock the safe completely, but yet, with a small amount of proper turning and one or two reverses the one tumbler that is out of place will come into line and the safe be unlocked in a few seconds, and with much less time and trouble than to work

the whole combination. A little practice will enable any one to do this—if not, write to the maker of your safe, giving only the last combination number, and he will send you the required information.

§ 288. **Arrangement of His Cash.** The paying teller has a money drawer which, to facilitate payment, is divided into sections, which contain bills of different denominations.

When counting bills he packages them usually with fifty bills to the package. The number of bills to a package, however, varies to suit his convenience. These packages are properly labeled, and if the amount of a package is to be paid out it is not recounted. Coin is also packaged by rolling in paper and labeling. Some of the packages must, of course, be broken during the day for small payments. Bills must *never* be slipped out, leaving the label around the rest of the package. *Break the label.*

The paying teller pays out all the money. If the cashier has occasion to pay he must do so by a cashier's check, and the first teller pays the money. Having charge of the cash, as he does, he receives, from the other tellers and clerks, at night, the amount received by them during the day. If they have a compartment in the vault, they do not turn over all their cash to him, but reserve enough to meet the requirements of change, etc., the next day.

§ 289. **Clearing-house Exchanges.** All the exchanges sent to the Clearing-house must appear in the first teller's accounts. These exchanges include all checks drawn on other banks, which have been paid to, or deposited by our customers. We pay the checks on other banks which our dealers present as a matter of accommodation and then turn them over to the drawee bank at the Clearing-house. A full explanation of the workings of a Clearing-house will be found in another chapter.

§ 290. **Business Paper as Money.**[c] In order to fully un-

[c] From § 290 to § 302, inclusive, is the gist of a lecture before the Institute of Accounts, at New York, Dec. 10, 1890, by S. R. Hopkins.

derstand the nature of the paying teller's duties, we deem it apropos to consider the use of business paper as money, and the nature and proper treatment of checks, before giving the law regarding them and their disposition by the first teller.

A few weeks ago I was standing in one of the large banks in this city, and I saw a long line drawn up in front of the receiving teller's window. Each of the persons in that line carried with him the ordinary pass book and deposit slip. All were awaiting their turn to get an opportunity to transact business with that officer. But there was one person who particularly attracted my attention—not the person, but what he had in his hand; for he had a peculiar kind of deposit ticket. It was of the ordinary width—about 3 or 3½ inches wide—but it was between three and four feet long. My attention being called to it, I spoke to the cashier and asked if he received many such tickets. He said that was one of those peculiar characters and the house was peculiar that it came from, and that it was "sweetness long drawn out." "Now," the cashier continued, "that man whom you see with the deposit ticket longer than you could reach both ways with both arms, filled in with several hundred items, has not brought $1 to this bank. There are probably $2,000 or $3,000 to be credited to that house, but not $1 has been received in money."

It is not usual in banks to see a thing of that kind. If we take notice and observe carefully all the deposits made at all the banks in this city on any single day, we will find in every $100 about $5 in money and $95 in paper.

We will notice, if we observe the last report of the Comptroller of the Currency upon the condition of the national banks, that on a certain day this last year the Comptroller of the Currency called for a statement of the banks. The statement was made, and a computation has been compiled showing that on that day, of all the millions that were deposited in the United States national banks, 92 per cent. of what was credited up to the tellers' accounts was for paper, and about 8 per cent. for cash—real money.

§ 291. **Representatives of Money.** When I speak of business paper as money I do not refer to representatives of money. Bills, greenbacks, gold and silver certificates and national bank notes are not money, only they are called money. They are mere representatives of money. The law says that a dollar is 412½ grains of silver, nine-tenths fine, or 25 4-5 grains of gold, nine-tenths fine. Now we know that a piece of paper can be neither of these, consequently is not a dollar. Even the government does not consider them money. On the bill we see, "The United States will pay the bearer so many dollars." These papers are representatives of money, and are generally taken as such. Business paper, as we wish to treat it, is that class of documents which custom and practice have brought to represent money, but which is not called money.

Business paper as money is that instrument drawn against funds held by the drawee for the purpose of paying an order The simplest form is the post-office money order, or postal note. It corresponds to our rule.

§ 292. **Various Promises to Pay.** Express money orders, bank drafts, checks or bills of exchange, of certain kinds, are also of that character. Depositors' or tellers' checks, cashiers' checks and certified checks also belong to this category. Other paper is sometimes listed as cash items by banks, but they are not business paper as money. I have seen tellers take money out of the drawer and drop I. O. U.'s in and carry them as money. It is simply a promise to pay, and I want to draw a distinction between business paper as money and a promise to pay. A memorandum check is an evidence of debt, but it is not a check because it is not payable on demand. It does not agree with a proper definition of a check. Even a bank's certificate of deposit is not a representative of money, for it does not meet the requirements of what business paper should be.

§ 293. **A Check Defined.** Now we come to checks. I will give the definition of a very learned judge of what a check

is. He says it is an unconditional order on a bank or banker to pay a specified sum of money to a person named, or to his order, on demand. Now we have arrived at a place where we can examine one of the most important elements that enter into all business transactions at the present day—checks. These are of the greatest importance. They perform the greatest amount of service—far more service than all the money in the country.

The essentials of a bank check are:

First it must bear the signature of the maker. It must authorize the payment of a sum definitely stated. It must be addressed to a bank or banker on which it is drawn. It must be dated. The date may be before, on or after it is issued. It must be payable on demand, and it is considered to be payable on demand, although the words "on demand" are not stated. It must also indicate a payee.

What is the purpose of a check? We all speak of a check. What is it for? It is an instrument by which a depositor in a bank seeks to withdraw the funds, or some part of them, on an order. This order is a check.

§ 294. **The Signature.** Now, the first consideration is the signature, and the law comes into effect there for various reasons. People have drawn checks in very many different ways. We have in general usage blank forms, which are issued by banks to their customers. There are many other printed forms which have been used from time to time, as for example here is one:

> *I. T. Smith directs the First National Bank to pay John Smith fifty dollars ($50.)*

There was no signature. The bank upon which this check was presented refused to pay it, claiming that it was not a check, as it was not signed. It caused this Mr. Smith a great deal of inconvenience, injured his credit and spoiled valuable trade. The check was brought back to him, and he sued the

bank for not paying it. What did the court say? It said that I. T. Smith was his signature; consequently the bank had to suffer all the loss, because the teller of the bank failed to appreciate that the name, "I. T. Smith," written in the check, was his signature.

In another case this form was used:

> *Mr. G. Rood, attorney-in-fact for T. Brown, requests the bank to pay Mr. H. Larson twenty dollars.*

This, in law, has been held to be a veritable check. Mr. Rood, as attorney, had authority to sign for Mr. Brown, and it was considered a good check.

A man signs a check and he says "agent;" or he makes his signature as "trustee" or something of the kind, and these things have gone into litigation, and the result has come like this: A person must follow one rule in signing a check. He must make his signature as he leaves it with the bank, showing what his real signature is that he will use. This does not always hold good, however. A bank is not always justified in refusing payment of a check by strict comparison of the signature; but if a person writes his name disguising his signature, although he may sign it himself, and it is clearly not the signature he has left at the bank, the latter has a right to refuse to pay it long enough to ascertain if it is his signature, without fear of damage.

A very important case was tried in a western town, where there was a corporation. The corporation had deposited money in a bank. Three directors signed a check, each signing as a director, and then the secretary signed as secretary. The bank refused to pay, because the check did not contain the name of the corporation, as the money was deposited in the name of the corporation. In this case the court decided against the bank, for the reason that this was an unusual signature. The three persons signing as directors and the one as secretary of the company, was enough to put the teller on

his guard and cause him to make inquiry to ascertain if that was the signature of the corporation. The loss fell on the bank.

§ 295. **The Amount.** In the next place, the sum must be specified with such precision that the teller of the bank may know with certainty what it is. A foreigner from the other side came over to this country and deposited his money in a bank. He thoughtlessly drew a check and sent it to the bank, he being in another city, but instead of drawing it for dollars, as he should have done, he drew it for pounds. It was a very important thing that he should have that check paid, and neglect so to do was a serious loss. When the check was presented for so many pounds at the bank, the teller dishonored it, refusing to pay it. The man brought suit against the bank and the courts in this case decided that that was not a check, and thereby established a rule which is the generally accepted rule at the present time. That is, that to be a perfect check it must not only specify the amount with precision, but that amount must be expressed in the currency of the country. The cashier was right in declining to pay the check in this case. He was right, because in the first place it was not a sum certain. It called for pounds, and while the teller could have calculated the amount from the rate of exchange that day, the check did not say a sum certain. The teller had nothing in the shape of pounds to pay with, and he could not comply with the requirements of the law.

§ 296. **A Check for "39.67."** The check read "39.67," and the teller refused to pay it. The court decided that reasonable judgment on the part of the teller could not have failed to read that any other than $39.67. The directions were clear, and the figures plain. The signature was correct, and reasonable judgment should have told the teller that it was United States money that the check called for, and the bank had to pay large damages.

In another case the check was all right but the amount read "twenty-one and thirty-six dollars"; but the figures in

the margin were $2136.00. The teller tendered the holder $21.36. The court decided that the word "and" was a separatrix and that it meant $21.36, consequently the teller was right in tendering that amount. If the drawer intended to write the check for $2136.00 he should have written "twenty-one, thirty-six and no-100 dollars." Even then the omission of the word "hundred" would be inexcusable. A teller is often at a loss to know what careless check drawers mean.

§ 297 **A Check should be Addressed to Some One.** A check must be addressed to some person. If not addressed, and taken to a bank and paid by the teller, it is a gratuitous payment. It must be drawn on the bank or banker, and must be on a bank that is not closed, or it is not a check.

In a case in Milwaukee the name printed on the blank check was "First National Bank." The drawer ran a pencil line through the words and wrote upon them "J. O. Tyler." Tyler refused to pay it when presented, claiming that it was on a Milwaukee bank; but the court held that the fact that the pencil mark was drawn across the words "First National" was evidence from the circumstances that the man meant to draw it on "J. O. Tyler"; consequently J. O. Tyler was held responsible for the non-payment of the check when it was presented.

§ 298. **A Check must be Dated.** The next consideration or essential is that a check must be dated. A check is said to be due on the day of its date. The date may be before it is issued, on the day it is issued, or some other day. If it is dated some days before it is issued, it is called a "post"-dated check; but the date must be specifically stated, because the court says, "A check is payable on the day of its date," and if it is not dated it is not payable—there is no time to make demand, and it never becomes due. It is due when dated. If a person has neglected to put the date on the check, the bank has a perfect right to refuse payment of a check of that kind. But a check of that kind may be paid by a bank. If

the check was drawn in good faith and went to the depositor's benefit, the fact that he did not put the date on it could not be taken advantage of. Checks dated on legal holidays or on Sundays are good. The law says a check is due on the day of its date. If for any reason a check cannot be paid on the day of its date, it must be presented the first business day following, or that the bank is open for the payment of checks.

§ 299. **A Check must be Payable on Demand.** One of the essentials of a check is that it is always payable on demand. If it is payable in any other way it is not a check, although it may have all the other features connected with it. If it is payable some other time than the day it is dated it is not a check, for a check is payable on demand.

§ 300. **And Payable to Some One.** Some one must be named in the check to pay it to. A bank has no right to pay it to a blank. There must be something or somebody named in the check. When a man writes a number of meaningless words in a check the law construes them as meaning "Pay to bearer." So all checks drawn that way have a payee, it being in that case "bearer." Checks may contain many things that are not specified. A check may say in it "Pay to So-and-So, so many dollars for value received." It is a check just the same. A person has written a check which has on it the word "Original," or another may have written on it the words "First Unpaid." This would very nearly appear to make it a foreign bill of exchange, but it was not, for it had all the characteristics of the check with that exception, and the courts held that it was a check.

The law presumes that every check is drawn against a deposit of money. If payable in another state it does not change the character of it.

In coming to this I want simply to quote what Chief Justice Shaw gave in a very important case. In describing a check he said: "A check is an order to pay the holder a sum of money at a bank on presentment of the check and demand of

the money. No previous notice is required—no acceptance is expected or necessary. It has no days of grace; it is payable on presentment and not before. A notice to a bank by a person holding a check does not bind the bank if he does not present it." This was in an important case where a person expecting a check went to the bank, notified the paying teller of the bank that he held this person's check, and he wanted the paying teller to withhold enough of the funds to pay the check until he got the check. The teller had every reason to believe that the man would get the check, but he refused to do as requested, and the court sustained him.

§ 301. **Days of Grace.** There has been a great deal of conflict in decisions in regard to the question of grace on checks. One state in the Union has decided that a check drawn, saying "90 days after date, pay So-and-So so much money," is a check. This was in a decision by the Supreme Court of Rhode Island. A little conflict arose as to whether it would have grace. The general trend of all decisions that have been given are to the effect, and it is generally held in all the courts at the present time, that a check must be due on the day it is dated. If a bank pays a check dated ahead it does so at its own risk. The maker has a right to all the funds he has in that bank until the day of the check arrives. He may date it 5, 10 or 30 days ahead, and although the bank may know that such a check is out it must honor up to date all checks which may be presented, even though by so doing there are not sufficient funds to meet the post-dated check.

§ 302. **When is Payment Estopped.** The question whether a person can countermand payment of a check after it has passed out of his hands is one which would require considerable discussion to explain. The money is the depositor's until the time of the presentment of the check, and if he desires he may countermand the check or stop payment. There might be circumstances, however, where a person

would not be justified in countermanding and could not hold the bank responsible if it paid the check.

A man had a check and he went to the bank and gave it to the paying teller to have it certified. The teller took it, stamped upon it the certification of the bank, and was about to hand it back to the individual presenting it, when the man who drew the check appeared at the window and said, "I countermand that check." The teller said, "You are too late; I have certified it already. I have charged your account." "Well," said the man, "I countermand it." But the teller believed he was right and issued the check to the man presenting it for certification.

When they made up the account of the man who drew the check, the latter, which was for a large amount, was charged to him. This check practically exhausted the funds standing to the credit of this man, but he paid no attention to the matter and drew another check against the bank and the bank refused to pay it. The bank was sued, and the court said, in effect, that a check is not issued until passed out of the hands of the person who makes it. Taking this view of the case, although the teller had stamped the check—had charged it up—he had not certified it because he had not given it back to the person presenting the same. He had notice from the maker to countermand it, or stop payment, therefore the bank lost the amount of the check.

§ 303. **Payment of Checks.** The second, or receiving, teller may pay checks by taking them as deposits, and the messenger may take them, when not at the bank, in payment of the notes he may be collecting, but these are all turned over to the first, or paying, teller at the close of the day, so it may be said that he pays all the checks which come to the bank. Every transaction relating to cash must drift to the first teller in one shape or another, in order to have some gathering point from which to ascertain the real condition of the bank.

In paying a check there are three things that should be considered: first, is the account of the drawer good for the amount of the check; second, is the drawer's signature genuine; and third, is the person presenting it the proper person to receive the money?

§ 304. The first of these questions is very important to all safe banking. By long practice he is enabled to gain a good general knowledge of the average balances of his customers. But there are a number of little accounts whose balances it is impossible to keep the run of, except by looking up the account, on the dealer's balance book, for every check paid, and thus ascertaining for a certainty before paying a cent. These little accounts are the bane of the paying teller.

Of course he soon learns whom he must watch, to prevent an overdraft, though after all his vigilance one may be perpetrated. An overdraft consists of paying checks for more than the drawer has on deposit. As already stated, to permit overdrafts is inconsistent with safe banking, for it is to loan money without interest and without security. Eternal vigilance will reduce the amount of overdrafts to the minimum, though, after all the care, they may be perpetrated. The runner takes in checks for notes when not in the bank, the second teller takes them on deposit, and the first teller pays them over the counter. Should a depositor have $1,000 to his balance, he might draw three checks for $1,000 each, and give one to the runner, or third teller, for a note, one to a creditor who would deposit it with the second teller, and himself cash the other at the first teller's window, and thus overdraw his account $2,000. While this is not liable to happen, yet it is possible.

By careful examination of the checks and deposits of a dealer it is easy to judge whether they are the returns of his business, or are transfers between different persons. It is easy to discover whether or not a man uses his credit to excess, and to get information regarding his personal habits and his character.

§ 305. **"Kiting."** Though "kiting" is illegal, it may be successfully practiced. A person with an account in bank A, exchanges checks with another person who keeps his money in bank B; they deposit the checks in their respective banks, and subsequently, but before the checks have had time to go through the Clearing-house, they draw money out on their own checks. When a check is thus deposited, if the receiving teller should suspect anything wrong with it, he would inform the paying teller of the fact, who would refuse to pay the depositor's check when it was subsequently presented through the Clearing-house. Such a thing would not probably occur with a new depositor, for the bank would not pay out money when it had received none, but an old depositor might do such a thing. This method of obtaining money is termed "kiting," and the persons who engage in it are considered dangerous to a bank. When a person is detected in "kiting" his account is closed, and the bank refuses to have further dealings with him.

§ 306. The second question: Is the drawer's signature genuine? takes in the forgery problem. Forgery is one of the terrors of banking and the teller must be always on the alert. Many devices have been invented to prevent forgery. Various kinds of paper and various colored inks have been tried with various success. In printing paper money, green ink was introduced to render forgery more difficult, and it has proven quite effective. Private marks in signatures have been used with some success, but if a forger discovers the private mark and succeeds in counterfeiting it, the teller is more likely to be deceived than if no mark was used.

§ 307. **Signature Slips.** One of the precautions employed by banks is that of having the depositors write their names in a signature book. A great many banks have discarded the signature book and are using signature slips. A signature slip consists of a slip of paper about the size of a note, with space for date, signature, address, business, references, deputy and

memorandum. When the signature is written on one of these, it is filed in alphabetic order in a letter or other pocket file. One advantage in using slips is that the signature of an out-of-town customer may be had by inclosing a slip in an envelope and mailing it to him, while it would be exceedingly troublesome and inconvenient to send him the signature book.

The teller can compare doubtful signatures with that on the signature slip, and, though many dealers vary their signature, the teller must always satisfy himself that the one on the check is genuine. If a dealer varies his signature he should notify the teller of the change.

§ 308. The importance of the third question: Is the person presenting the check the proper person to receive the money? is not of so much importance, yet it often causes a great deal of trouble. When a check is drawn payable to some person or his "order" it must be properly indorsed and the holder known at the bank, or properly identified, as being the right person. If the check is payable to "bearer" no identification is necessary and the bank will lose nothing even if the holder is not the owner, for the drawer takes all the risk of this kind when he makes his check payable to bearer. But if the bank pays an "order" check to the wrong person, even though he had successfully forged the indorsement of the payee, it would have to pay it a second time to the rightful owner of the check. Checks are drawn payable to order to avoid payment to the wrong person. It is a form of security which drawers should not omit in drawing checks.

§ 309. **Duty to Pay Checks.** A bank, doing ordinary commercial banking, is bound to meet the drafts of its customers. It gives the community to understand that it will pay all of its depositors' checks on presentation, and this amounts to an implied acceptance in advance. Payment is not complete, however, until the amount is given to the receiver, the check cancelled and charged to the drawer's account.

A bank is always justifiable in paying on the depositor's demands. And if the depositor notifies the bank not to pay his check, or checks, and the paying teller promises to regard the notice, but does not, the drawer can recover the amount from the bank.[d] Of course, when a check is estopped the maker is answerable to the holder for any consequential injury.

If a check is drawn by a depositor on a sufficient deposit and the bank refuses payment, the depositor can maintain an action against it for the wrong done, although no actual damage may have been sustained.[e]

In like manner if a check has not been revoked the holder expects it to be paid on presentation. He may suffer a real injury by refusal for which he may be without redress, as in the case of the drawer's insolvency before recourse to him could be effectual. From the usage of business, the holder has the bank's implied promise to pay, and he ought to have a remedy against such bank for any breach of contract. So that if a bank, in violation of its duty, dishonors a check, the holder may be injured quite as much as the drawer, and the bank is answerable to both for its breach of contract.[f]

§ 310. **Can a Bank Delay Payment?** A bank is bound to pay a check, drawn by a depositor, within a reasonable time; provided there are sufficient funds belonging to the depositor for the purpose. But a bank is not legally bound to the holder to pay or accept a check drawn by a depositor, although there may be sufficient funds for the purpose to his credit at the time of the presentment. But if it does not accept it must refuse. It has no right to receive and keep a check indefinitely, thereby leaving the holder to suppose that it has accepted it and assumed its payment.[g]

In several cases[h] it has been decided that a delay of more than one day would be an unreasonable delay and the bank would be liable on an implied acceptance.

[d] Schneider *v.* Bank, 1 Daly, 500.
[e] Marzetti *v.* Williams, 1 Barns & Ad., 415.
[f] Saylor *v.* Bushong, 100 Pa , 23.
[g] Bank *v.* McMichael, 106 Pa., 464.
[h] Saylor *v.* Bushong, 100 Pa., 23; Grammel *v.* Carmer, 55 Mich., 201.

§ 311. **Part Payment.** If a check, offered for payment, is for a larger amount than is due the depositor, and the holder is willing to receive the balance due from the bank, the paying teller should honor the check to this extent, crediting the amount paid thereon.

In Illinois, however, the bank is "under no obligations to make a partial payment," for then the check could not be taken and held as a voucher.[1] In Massachusetts the rule is stated thus: "A check drawn upon a bank for more than the amount of the drawer's funds on deposit creates no lien upon, and gives the payee no right to the actual balance, until the bank has agreed to pay it *pro tanto*."[2]

The holder of a $900 check presented it for payment to the paying teller of the drawee bank. The paying teller informed the payee that there was a balance of only $700 to the credit of the drawer and he would, therefore, have to refuse to pay the check. The holder then obtained $200 and deposited it with the receiving teller to the credit of the drawer, then stepping again to the paying teller's window he obtained the full amount of his check. In a few days the drawer failed and it so transpired that the holder of this check received a much larger pro rata on his debt than any of the other creditors.

The question is not legally settled whether the holder can compel a bank to pay a part of a check. But a bank doing so is surely doing a safe business, since the drawer has signified his desire to have the holder paid, and if the deposit is not sufficient to pay the entire amount of the check, he could surely make no objection to a partial payment. It is perfectly legitimate for a bank to receive a deposit and pay a short check.

§ 312. **Post-dated Checks.** A post-dated check is one which is dated ahead. A wants B to pay a debt. B says he

[1] Coats *v.* Preston, 105 Ill., 470.

[2] Dana *v.* Bank, 13 Allen, 445.

has no money but will have some next week. A requests him to give him a check dated some day next week and he will hold it until that day. B thinks he will have the money in the bank by a certain day and accordingly gives A a post-dated check.

This kind of a check is valid, but should a bank pay it before the date mentioned, the money can be recovered.[k] It was held that where a banker, contrary to usage, paid a check which had been lost by the payee, the day before it was due (i. e., its date), he was liable to repay the amount to such payee.[l]

The system of dating ahead is generally condemned by all good business men as well as bankers, and the different phases of the question are just now receiving much attention at the hands of trades committees in different localities. Some of the more prominent of these committees seem to think that the system is so wide-spread and deep-rooted that it cannot be done away with except by mutual agreement and co-operation; that any remedy that might be proposed must be in accordance with the wishes of the trade.

It is the universal opinion that the system is a great evil, and all seem to desire its abolition or modification.

The abolition of the system will be of great benefit to banks, as undue losses are the inevitable result of transactions which are not based on sound financial principles.

§ 313. **Partnership Deposits.** 1. *Keeping the Account.* Without expressed authority, a partner has no right to open a bank account, on behalf of the firm, in his own name. Even when the partnership business is carried on in the name of one partner, for their individual protection the other may insist that the deposits be kept in the partnership name. And if a deposit is made in the name of one partner, this is not conclusive that the account was opened on his own behalf.[m]

[k] Godlin *v.* Bank, 6 Duer, 76.

[l] Wheeler *v.* Guild, 20 Pick., 552.

[m] Cooke *v.* Seeley, 2 Ex., 745.

2. *How Withdrawn.* By paying out of a partnership deposit, on an individual partner's check, a bank could justify itself only by proving that the money was applied to the firm's use. Unless some special agreement is made regulating the mode of drawing checks on the partnership deposit, the bank must honor checks, not post-dated, drawn in the partnership name, but not otherwise.[n]

3. *Surviving Partner.* When a partnership is dissolved by the death of one of the partners, the surviving partner has the right to withdraw the deposit in the name of the partnership or in his own name as surviving partner.

4. *Deposits of Old and New Partnerships.* If a partnership be dissolved and a new one formed, the bank cannot apply the deposits of the new firm to the payment of an overdraft, or any other debt, of the old firm, whenever notice of the change has been given. Such deposits must be used in paying the checks of the new firm.

§ 314. **Checks of a Corporation.** When a corporation deposits money it generally sends a form of the mode in which the checks are to be drawn, and when this is done it is not necessary for the bank to inquire into its articles of incorporation as to how the directors are appointed before paying its checks.

By virtue of his office, a president of a corporate body has no power to draw checks. This authority may be given him, however, by by-laws, charter, or usage.

§ 315. **Identification.** This subject being of great importance is entitled to further consideration.

Many bankers go so far as to require identification when checks payable to bearer are presented for payment. The identification of the holder of a check payable to order, is, of course, justifiable caution, but a bank cannot rightfully require identification of the holders of "bearer" checks, since drawers waive such demand when they fill up the checks

[n] Emly *v.* Lye, 15 East., 7.

in this way. The banks are, no doubt, often too strict in this regard anyway. They ought to be willing to waive the rules under certain circumstances, and assume, as a part of the legitimate risk of their business, the very slight risk which good judgment will incur, in now and then paying small checks to well appearing persons who are strangers in a strange city. A teller ought to have sufficient judgment to exercise a little latitude in this matter of identification. It is often impossible for strangers to furnish identification, and the pertinacity with which some bankers hold to the rule causes much trouble and inconvenience to honest check and draft holders.

In England, identification was long ago abolished. The bankers found that they could not get through with a day's business under the rules, and a law was passed by Parliament authorizing bankers to pay all checks apparently properly indorsed to unidentified holders. The loss to banks is probably no greater than under the identification method, for banks are often defrauded by scoundrels, who, in some way, work themselves into an acquaintance.

A stranger comes to a city and makes a few business transactions with a good business man. In a few days he is required to be identified at a bank, and gets his business man to introduce him as a customer. Being fully identified and introduced by a highly respectable business man, he succeeds, a few days afterward, in collecting a genuine check, which has been raised to ten times its original amount. The stranger then hastens to other fields.

Some persons have queer ideas about being identified. They tell the teller that he has no legal right to presume that the presenter is not the right person, and that the paying teller ought at once to pay or prove that he is not the man he pretends to be. They say: "If you want any identification, go and hunt it up; I am not going to do so, but I want my money" This is good (?) logic but the force of it is lost in the fact that the bank has possession, which is "nine points of the law."

§ 316. **Identifiers.** The teller ought faithfully to record, on the back of the paid check, the name and address of the person who identified the payee.

Of course this brings up the question of the identifier's liability, and what recourse a bank can have to him in case any trouble results from the payment which he helped along. This is a question difficult to answer. A stranger presents a check to a bank for payment. He is requested to furnish identification. He brings forward a man known to the bank, who says he knows the checkholder to be of the name to which the check is made payable. The check is cashed, but no record made of the identification. It turns out that the check was paid to the wrong man, who had forged the indorsement. The teller knows that the person was properly and satisfactorily identified, but for the life of him he cannot remember the name of the identifier. The bank loses the money, no recourse being had to an unknown identifier.

But, on the other hand, a record of the identifier is not always of assistance in case of fraud or loss. The paying teller paid a check to an identified stranger. At the end of the month when a settlement was made it turned out that the stranger had stolen the check and forged the indorsement. A re-examination of the check revealed the name of the receiving teller, as identifier. The receiving teller could not remember anything regarding the identification. Nothing more could be done, so the bank assumed the loss.

Anyway this responsibility of the identifier amounts to very little. For this reason it behooves every person who has any regard for honesty and safe business methods to be exceedingly careful in identifying strangers. Of course, the legal phase is, as interpreted by the courts, that the identifier undertakes to say that the person holding the check is of the same name as that on the check, as payee. He does not say that he is the right payee, but simply that his name is so and so. To be sure I should not identify any one at a bank unless I suppose he is the right person and honest in his

intentions. But according to this decision I simply testify that his name is so and so, and unless it can be shown that I have intentionally aided in the fraud, or been dishonest, I cannot be held at all liable.

Banks sometimes pay to the wrong man with the right name. One J. B. Jones may steal a check belonging to another J. B. Jones. He forges the indorsement, procures proper identification, gets the money, and leaves. The right J. B. Jones comes along, demands the money, and the victimized bank must pay and suffer the loss. If drawers of checks in favor of persons whose names are common, like John Smith, etc., would place thereon something which would identify the particular John Smith to whom payment is ordered, it would, in many cases, in large cities, prevent loss.

A case has recently been decided in the Supreme Court of Colorado making the identifier liable for the loss. In rendering the decision the Court said: "When a person goes to a bank with another, and identifies him as the payee of commercial paper, on the strength of which the bank pays the money, he assumes the responsibility for the effect of his identification, and is liable to the bank if the payment was wrong. It matters not that he supposed the person identified was the proper person. When he induces the bank to act upon his representation, he takes upon himself all responsibility, and his good faith does not affect his liability."

If this principle is sustained and held in other states, the matter of identification will be a much more dangerous thing than it is generally supposed to be.

§ 317. **Identifying a Drummer.** There is a good idea contained in the following, which is going the rounds of the press:

"There is no source of annoyance to a traveling man so great," said one of the fraternity the other evening, "as the necessity to which we are frequently put in securing men to identify us when we desire to cash a draft or money order.

We are all of us annoyed and embarrassed at such times, and I never saw any scheme to do away with the difficulty until one day last week in Des Moines, Iowa.

"After dinner a friend of mine said, 'Come down to the bank a minute, want to show you something.'

"We went down to the bank.

" 'Draft here for me?' 'Yes sir,' said the teller.

" 'Photograph accompanying it?' 'Yes sir.'

" 'Please look at it and see if I am the man.'

"The clerk did so. He was the man, and a moment later he had his money and had been subject to no trouble or mortification at all.

" He told me as we went out, that he immediately returns the photograph to his house. They always inclose it with drafts. It's the cleverest scheme I ever saw."

§ 318. **Checks Paid by Other than Drawee Banks.** Depositors who receive checks from their customers often have checks drawn on many different banks. These are all deposited with, and collected through the depositor's own bank. Herein is the necessity for the Clearing-house. At the Clearing-house each bank delivers to the respective drawee banks all the checks drawn on them which it has taken as deposits or paid in other ways. When a bank thus pays a check drawn on another bank it has no way of telling whether the check is a forgery or whether or not the drawer has money in the drawee bank. The teller must therefore depend entirely upon the question as to whether the holder is the proper person to receive the money, and whether the bank would be able to recover from such holder should the drawee bank fail to pay. So that banks seldom pay checks drawn on other banks except to their own dealers or those to whom they feel certain they can have recourse in case of loss.

When a bank does cash a check drawn on another bank, its acts are construed as being equivalent to an identification of the payee. Bank A issued a certificate of deposit payable to C.

The bank took on its signature book the mark of the depositor who said he could not write, and wrote a description of him opposite. Soon after a stranger stole the certificate and appeared at bank B and said he could not write. The cashier of bank B thereupon indorsed it to his order and wrote C's name. The stranger made his mark and a clerk signed as "witness to the mark." The cashier then indorsed it and sent it through a correspondent to bank A, who paid it, and in due time the stranger received the money. Now the real depositor, C, appeared at bank A and demanded payment. The bank acknowledged the forgery and paid him. It then brought suit against bank B to recover payment on the forged indorsement. It was held that bank A had a right to rely on the identification of the real depositor by bank B and could therefore recover.°

§ 319. **Receipt for the Payment of Checks.** A gentleman presented to the drawee bank a good check for $1,000. The check had been drawn to the order of a person who had properly indorsed it in blank and passed it to the present identified holder who was trying to collect it. The paying teller asked this holder to put his name upon the back of the check. This he refused to do, saying it was not payable to his order, that he had no interest in it except to collect it, and that the paying bank had no right to demand a receipt of him since it would have a full and complete voucher when it took up the check. This is a difficult question to settle. True the bank had no legal right to require a receipt since the voucher would be surrendered to it, but the signature of such a check collector is a very desirable thing for a bank to have for corroboration and reference should anything unusual turn up in the future history of the check, and it is desirable for the paying teller to procure the collector's name whenever possible. Few check collectors will, under such circumstances,

° Bank *v.* Trust Co., 2 Dillon, 11.

refuse to furnish it. When a check is payable to the payee, or order, and the payee presents it for payment, most banks get his signature. Even when checks are drawn payable to bearer, many banks make a practice of requiring the indorsement of the collector, unless he is the drawer. This is a good method, for it gives the bank a name for reference in case there should arise any trouble in the future.[p]

§ 320. **How Checks are Usually Cancelled.** After paying a check, banks have a custom of stamping it "paid," or stamping or cutting some peculiar hole through it to denote that it has reached the end of its journey. The punches which some banks use cut pieces out of checks, which pieces may bear some figure or other mark that may be of much importance in case of a suit against the bank.

All agree that the paying teller should cancel all checks before passing them to the bookkeeper to be charged. The absence of a teller's cancellation would give a bookkeeper an excellent chance to use the check a second time.

A peculiar cut, made usually with a spindle at the time the check is paid, and which removes no portion of the check, is the proper mode of cancellation, and the one now in use in most banks.

§ 321. **Checks Cancelled by Mistake.** Tellers will sometimes cancel checks when they have not been paid and are not to be paid by them. Such checks may be drawn on another bank, and as the cancellation is supposed to be evidence that the check has been finally paid, it is the duty of the person who by mistake punches such check to make a formal record upon the check and just under the punch, that the cancelling was done by mistake. This should be done before it is passed along to the drawee bank. And should a cancelled check reach the drawee bank, not containing the record just mentioned, it should be immediately returned to the bank in error for its certification that the stamping was done by mistake.

[p] Patten on Practical Banking, p. 14.

However, a bank could hardly refuse absolutely to pay a check simply because it has a hole or cut in it.

§ 322. **Certification.** To count the money for large payments would be a long process. It could not be done. So men, by drawing checks, make their own money, millions of dollars every day, and destroy it at night. But many men will not take checks, and especially for large amounts, without good reasons to believe that they will be paid when presented to the drawee bank. To avoid having the drawee bank count out the money to the drawer, and the drawer count it over to the creditor, and the creditor count it over to his bank, who would of course count it to see if it is right—to avoid all this counting of money and the resulting loss of time, the drawer takes the check to his bank for certification. This consists in the teller writing or stamping the words "Certified," "Good," or "Good when properly indorsed," the date or amount and his signature on the face of the check. This is the bank's written promise to pay the check, and is as good as the bank's note. Even if a bank should wrongly certify a check it would be liable for the payment, unless the certification gave notice on the face of it that it was irregularly done.

When the depositor's balance is sufficient to pay the check presented for certification, the duty of the paying teller is very simple. He certifies it at once. But he is often asked to certify checks for a larger amount than the balance to the credit of the depositor. This the National Bank Act positively forbids.[1] But under the state bank system no such restriction prevails.

If an officer certifies contrary to the Bank Act the certification does not thereby become invalidated. It is as binding against the bank as if the drawer's account was good for the amount. The certification is legal, and the law expresses only the consequences of over-certification. It would defeat the policy of the Act, intended as it is, to promote the security and strength of the national banking system, to construe the

[1] See § 62.

provisions so as to inflict a loss upon them, and a consequent impairment of their financial responsibility.[r]

Of course when a depositor asks for over-certification he expects to make good the balance in a short time, probably before the close of the day. The paying teller acts on his own authority and has, therefore, a great deal of latitude. He may, of course, get the advice of the cashier or president, but in any event the question is decided quickly. If the asking party is an old and desirable customer, the teller does not hesitate to certify, but if he is a new and comparatively unknown dealer the teller would refuse. The teller's authority to certify is nearly independent of his superior officers. He may, of course, refer to them for special instructions. Dealers apply to them to reverse his decisions, but seldom with success. The officers usually say, "The teller understands his business better than we do."

Certified checks are usually returned the following day in the debit exchanges from the Clearing-house. Often, however, they are sent to other places and do not return for several days.

§ 323. When a check is certified it is immediately charged to the drawer's account, certification being equivalent to payment. By any other method the dealer would be enabled to withdraw his balance in the bank after certification but before the certified check had been returned for redemption, and thus leave the bank to pay the amount a second time. An account with "Certified Checks" is credited with the amount of such checks at the time the drawer is debited. When they are redeemed "Certified Checks" is debited, so the credit excess of this account will show the amount of certified checks outstanding.

Often depositors ask for certification of checks for small amounts. On being told by the teller that he would rather cash it on the spot, the depositor demands certification. It

[r] Thompson *v.* Bank, 113 N. Y., 325.

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is wise banking to refuse to certify small checks and set them afloat, and a check presenter has no power to compel a certifying bank to certify even a check for a large amount.

§ 324. **Good When Properly Indorsed.** Some banks use the words "Good when properly indorsed," in their certifications. This matter of the proper indorsement is implied in all certifications. Many people have an erroneous impression as to what a bank's certification covers. It means simply that the depositor has on deposit the amount of money that the check calls for, and that the amount will be reserved by the bank to pay that check when returned. It does not certify to nor guarantee any of the indorsements.

One of the most common defects in bank checks is the want of proper indorsement. Suppose a check is presented for payment when in want of some indorsement, or bearing some irregularity of indorsement which precludes the bank from making payment.

We have in mind a case that could not be remedied by any sort of guarantee by the collector of the lame check. In such an instance there is nothing for the presenting bank to do—supposing it is in the hands of a collecting bank—but to return it unpaid to the correspondent from whom it was received, with the request that it be made good. It is a perfectly good check now, but if it has a long journey to travel it may be the check of an insolvent when it returns for representation. Here is a risk, but it may be avoided by asking the bank upon which the check is drawn, and which concedes that it is a good check now, to set aside the funds for which it calls, until it returns in its corrected condition. This may be done by certification, the depositor being debited with the amount certified, as already explained. The form "Good when properly indorsed," is specially fitted to the circumstance, and no bank has a right to refuse to certify a check in this way for the purpose described.*

* Patten on Practical Banking, p. 16.

§ 325. A case is given by a good authority, of a dealer presenting his perfectly good check upon his bank for one hundred thousand dollars. The check was drawn payable to the order of an individual who had not indorsed it, and the drawer wanted an unconditional certification in its unindorsed condition. If the bank had certified it, the form would have been "Good when properly indorsed;" but in this instance the board of directors had prohibited the cashier from ever certifying checks. The drawer wished, in paying the payee, to secure his indorsement, as a receipt, in a transaction he was making, and this payee had refused to accept the check unless it bore the drawee bank's certification, and the cashier's refusal to certify annoyed him greatly. The drawer then requested that the bank issue a certificate of deposit in favor of the payee of the check on the check in its still unindorsed condition. This request was also refused. The experienced banker will agree that it would not have been good banking to have complied with either of these requests made by the dealer in the case described.

§ 326. **Import of "Good."** The word "good," in certifying, is held to be equivalent to an acceptance of a bill of exchange and to be the admission simply of the genuineness of the signature of the drawer, and that there are funds for its payment. The bank becomes so far the principal debtor that it is not entitled to demand and notice, and delay in collecting for a year or more will not affect its obligation.

§ 327. **Payment of a Forged Certification.** If a check contains a forged certification which the teller asserts is his certification, and that it is genuine, it is adopted and the bank is bound by it as though it was genuine.[1]

§328. **Certification Equivalent to Payment.** As already stated, certification is equivalent to payment, the amount for which the check calls being taken from the drawer's account and held as a deposit to the credit of the check, and is for-

[1]Bank *v.* Bank, 50 N. Y., 575.

ever withdrawn from the maker except as a holder of the check. A certified check is, in effect, the note of the bank payable on demand. Each is intended to circulate as money; each is an absolute promise to pay a specific sum on demand. It no longer possesses the character of a check. It is more like a certificate of deposit.

The amount of the check being thus beyond the control of the drawer, he has no authority to stop payment on it.

A check is due when certified, and the drawer is discharged at once. The law will not permit a check when due to be presented and the money thus left for the convenience of the holder without discharging the drawer. The check is due, and it is the holder's fault if he declines to receive the money and for his own convenience appropriates the money to that check subject to its future presentation at any time within the statute of limitations.

§ 329. **Raised Checks.** A raised check is one in which the amount has been changed from its original sum to a larger amount. The drawer often aids and encourages such practice by the manner in which he fills up the check form. He fills up a check for twenty dollars thus:

_____ *Twenty* _____ *Dollars*,

leaving enough room for the check raiser to insert "One thousand" to the left of the word twenty, or "99-100" to the right of it. Or he writes it thus:

Five _____ *Dollars*,

without filling the space between "Five" and "Dollars," thus offering a splendid opportunity to write "hundred" or "thousand" after the word "Five." The drawer is liable for all losses occasioned by his own carelessness, as in the cases just described.

If a check is raised before certification the bank is not liable for the raised amount, and when payment has been made it may recover. By certification the bank guarantees the genuineness of the drawer's signature, and that he has sufficient

funds on deposit to pay the amount. It does not engage to say that the check is filled up properly any more than that the indorsements are all right. A bank cannot be supposed to be familiar with the signatures of the indorsers, nor know whether or not the check has been ingeniously raised. For these contingencies the reliable identified check collector is fully responsible. When, therefore, a bank check has been raised before certification, the certifying bank cannot be called upon to pay the amount of the raised portion. And should a bank certify a raised check and subsequently pay the amount without any culpable negligence on its part, it can recover the money thus paid as money paid by mistake.

§ 330. **An Example of a Raised Check.** A scoundrel received from the payee, bearing his indorsement, a check for $65, on a Des Moines bank. With acids he entirely removed the "Sixty-five" and inserted "Five Hundred" instead. He procured a proper identification to the drawee bank and had the altered check certified. An innocent party afterward cashed it and deposited it in another bank. Before passing through the Clearing-house the payee bank had discovered the fraud and refused to allow more than $65, for this was all it could charge upon the drawer's account for it. The loss of $435, the difference between $65 and $500, fell on the innocent party, who had unfortunately cashed a raised check; and a good authority asserts that that is where losses of this and similar character are always placed.

The fact that the bank had certified the check as good for $500 did not help the holder, since the law does not hold a bank liable in such cases where it has exercised proper care, any more than if it had paid the amount at once. If the bank had paid at once instead of certifying, it could have demanded the $435 back from the collector.

§ 331. **Payment by Mistake.** Even if a bank by mistake pays a check raised after certification it can recover the money, unless the holder has suffered in consequence of the

mistake. The certifying bank is not presumed to be familiar with the writing or the genuineness of the body of the check. It is legally bound to know only the signature of the drawer and its own certification.

The rules of law in relation to the correction of mistakes of matters of fact have been gradually growing more liberal and are moulded so as to do equity between the parties. There has been, probably, no case which holds that a payment by mistake, such as here shown, cannot be recovered. [u]

It is maintained that when money is paid by mistake on a raised check, and neither party is in fault, it may be recovered on the ground of a want of consideration. When a party to whom such a check is offered sends for information to the drawee bank, the law presumes that it has knowledge of the drawer's signature, and of his account, and is liable for its answer on these points. Unless there is something in the terms in which the information is asked that directs the attention of the teller, or cashier, beyond these two matters, his answer that the check is good—is all right—will be limited to them, and will not extend to the genuineness of the body of the check, the payee's name, or the amount.

Even should a teller inform a messenger, who might present a check for information regarding it, that the body of a check was genuine, it would be simply an expression of his opinion and could in no way bind the bank. It is no part of the teller's duty to give an assurance as to the genuineness of a check except in respect to the signature and account of the drawer.

§ 332. **Another Example of a Raised Check.** He was a reputable business man, but needed money badly. He stepped into the bank when the cashier and most of the clerks were at dinner, and bought an exchange for $50.00. He went to his office and changed the draft to $5,000.00, and, ascertaining that the clerk from whom he purchased it was at lunch, he

[u] Bank *v.* Bank, 55 N. Y., 211.

again entered the bank and carelessly said to the clerk in attendance that a short time before he had bought a draft for $5,000 to send east, but had since concluded to send $6,000, and wished an exchange for that amount and would return the $5,000 draft and pay the balance, $1,000, in cash. No suspicion rested on the man, and the $6,000 draft was handed to him.

Soon afterward the error was discovered and the clerk was accused of selling a $5,000 exchange and entering it as $50. It was a question of veracity between a so-called respectable business man and the teller, and the teller was convicted and sent to prison. When his term was about half served circumstances brought out the real culprit.

§ 333. **Methods of Check Raisers.** While it is true that many men fill in their checks so carelessly as to aid the forger, yet care in this regard is not a preventive against check raising. It is an easy matter to change a six, a seven or a nine dollar check to sixty, seventy or ninety, respectively, by the addition of "ty." An eight dollar check may be raised to eighty dollars by the addition of "y." It is an easy matter to change twenty to seventy, etc.

He gave a check for Two Hundred Dollars. In a few weeks it was charged to him, at the bank, as Five Hundred Dollars. The forger had made the "f" cross on the stem of the capital "T" and removed the last line of the "o" in the "Two," and dotted the first part of the "w."

Even the tinted paper, used by many banks and business men, is not a safe-guard against check raising, for the forger removes the lines or letters with chloride of lime, and after raising the check, supplies the tint by the use of crayon or water color and a fine pointed pen. The check is then subjected to the calender machine, and comes out seemingly perfect.

Even the check punches which are coming rapidly into use are not preventives, for there are instances where the

figures cut out of the check by these machines have been filled, and by the use of great pressure rendered almost proof against detection. The checks are then altered and a similar check-punch used to perforate the raised amount.

§ 334. **Changing one Draft to Correspond with Another.** Many banks advise their correspondents of the drafts they issue, and then if the draft offered for payment does not correspond to the advice it is not paid.

It was in New York, and the swindler knew that the bank advised its correspondent of its issues of drafts. He bought a draft for $50, and one for $5,000. He then changed the $50 bill to $5,000 and changed the number to correspond with the number on the $5,000 bill. He then sent the raised bill for collection, and, as it agreed in amount, number, etc., with the advice received, it was paid. He then negotiated the genuine bill and left for other fields. The forged bill being paid did not invalidate the genuine one and it had to be paid.

§ 334*a*. **Transferring.** Another method used by the crooks is to transfer the amount of a genuine check to several other blank checks. This is done by certain appliances, and is said to be done so well that the only method of detection is a comparison with the check stubs.

§ 335. **Filling up a Check for less than a Dollar.** Checks are drawn for amounts from one cent to many million dollars. The Treasurer of the United States has on several occasions drawn checks for one and two cents, and on Sept. 22, 1862, the New York Clearing-house received a check for one cent in payment of a clearing balance. On the other hand, the largest check ever drawn was for £5,338,650. It was genuinely drawn and cashed at the time of the amalgamation of the diamond mines at Kimberly, Africa, and, if estimated by the value of a pound sterling, would amount in our money to $25,945,839. This check was cashed July 18, 1889, by the Kimberly branch of the Cape of Good Hope Bank, Limited.

But about filling up small checks. This is often done in a bunglesome way. It should be done by writing the words "Thirty-six cents" in the space for marginal figures and the same words in the space for the amount in the body of the check. A heavy line should then be run through the printed word "Dollars," and you have it.

§ 336. **Payment of Forged Checks not Recoverable.** We have seen that money paid by mistake can be recovered, yet the payment of forged paper is an exception to the rule.

If a bank pays a forged check when the holder is in no way to blame for its mistake, and his condition would be made worse if he were compelled to refund the amount, the money cannot be recovered from him. The bank is supposed to know the handwriting of its customer better than the holder, and the law, therefore, allows the holder to cast upon it the entire responsibility of determining as to the genuineness of the signature; and if it fails to discover the forgery, imputes to it negligence, and as between it and the innocent holder, compels it to suffer the loss.

A bank should be exact in its own business, and must ascertain whether a check is genuine before paying it, or its imputed negligence will render it liable, notwithstanding the holder has obtained money without consideration. The bank cannot be relieved from the consequences of its negligence at the expense of the holder, and the holder may in equity and good conscience retain the money.

The rule works both ways, for if the holder is negligent so as to affect the transaction he will be liable and must return the money. To retain the money he must truthfully assert that he placed the whole responsibility upon the bank; that he knew nothing of the fraud; and that the mistake cannot now be corrected without placing him in a worse position than though payment had been refused.

§ 337. **Cases wherein Money Paid on a Forged Check may be Recovered.** But if the parties are equally in fault,

and the check is paid on a mutual mistake of facts, "in respect to which both were equally bound to inquire," it may be recovered. Judge Janney[v] remarked, that there was every reason to believe that if the banking company had required the holder of the check to identify himself he would have declined the ordeal, and it would not have been paid. The loss was caused, therefore, by its negligence. But whether or not this would have prevented the fraud, it was enough that both parties were bound to inquire, and allowing both to be at fault, the money could be recovered.

A check was drawn payable to D, or order, and sent, inclosed in a letter, by a clerk to the postoffice. The clerk opened the letter and cashed the check by forging the words "or bearer" and obliterating "or order." The court held that the drawer was not negligent in giving the check to his clerk to be mailed, and that the paying bank must return the amount paid.[w]

§ 338. **Loss Occasioned by a Lack of Vigilance.** In considering the bank's responsibility for paying a check altered after delivery by the drawer, it may be said that in disbursing the dealer's funds a bank can pay them only in the usual course of business, and in conformity to his directions. In debiting his account it is not entitled to charge any payments except those made at the time when, to a person whom, and for the amount authorized by him. The bank is, from necessity, responsible for any omission to discover the original terms and conditions of a check, once properly drawn upon it, because at the time of payment it is the only party, interested in protecting its integrity, that has the opportunity of inspection, and it therefore owes to its depositors the duty of guarding from spoliation the funds intrusted to it. The liability of the bank, however, for a loss occurring from neglect to exercise such vigilance is confined to the maker alone.[x]

[v] Ellis *v.* Trust Co., 4 Ohio St., 660.
[w] Belknap *v.* Bank, 100 Mass., 376.
[x] Crawford *v.* Bank, 10 N. Y., 50; Wheeler *v.* Gould, 20 Pick., 545.

§ 339. **Examination of Pass Book.** When a bank pass book has been settled and the cancelled checks returned to the depositor, it is presumed to be correct unless objection be made within a reasonable time. Most men are careful to examine such accounts when rendered, but the presumption may be repelled by showing that the fraud or error complained of was not discoverable by the exercise of reasonable care, or nothing suspicious had been seen, or that the party had had no opportunity to examine the account.

A bank paid a check for $16,700, payable to "currency or bearer," without the endorsement or identification of the holder. Five months afterward the alleged drawer of the check in question left his pass book to be balanced up, and the $16,700 check was returned with other vouchers. In four months from the time of balancing the book the dealer intimated to the bank that the check was a forgery, and in another month actually claimed it to be a forgery. The evidence proved it to be forged, and the decision was in favor of the dealer. In receiving deposits a bank becomes the debtor of the depositor and it agrees to discharge such indebtedness by honoring such checks as he may draw upon it, and it is not entitled to debit his account with any drafts which he does not draw. It pays forged checks at its peril, and is not justified in charging them to his account unless he contributed to induce such payment by his negligence.[7] The neglect is not claimed to be prior. The dealer was in no way responsible for the bank's act in paying the check. It parted with its own money, not the dealer's. And the loss cannot be transferred to him, unless it can be shown from all the circumstances in the case that but for his alleged negligence in not examining his pass book at once the bank could have saved itself.

In instructing the jury the court remarked that the depositor was under no contract with the bank to examine, with

[7] Bank *v.* Risley, 111 U. S., 125; Shipman *v.* Bank, 126 N. Y., 318; Bank *v.* Morgan, 117 U. S., 96.

diligence, his returned checks and pass book. In contemplation of law the book was balanced and the checks returned for the protection of the depositor, not for the protection of the bank; and when the dealer failed to examine it the only consequence was that the burden of proof was shifted, and the dealer then became bound to show that the account was wrongly stated. This right he has reserved so long as the account was not barred by the statute of limitations.

The court held that the dealer could not be charged with negligence in not examining the checks within a reasonable time, but that it must be shown that he was guilty of unreasonable delay in giving notice after he discovered the forgery. The check was payable to "currency or bearer," and the holder was not required to indorse it or to be identified, and the pass book not being written up for five months after payment was made there was nothing in the evidence to indicate that if the bank had been notified on the day of writing up the book it would have been in any better condition to discover the forger, or the person who received the money, or to avail itself of any measures to retrieve its loss, than from a notice coming four months afterward. If the dealer was negligent, it was not shown that the bank suffered any damage thereby, and such negligence could not, therefore, be alleged as a defense against the dealer's right to recover the amount of the check.[1]

§ 340. **Looking for Forgeries.** A depositor is not required to look through his vouchers to see if his name has been forged, and even if the forgery was not discovered for several months he could recover the amount. Even if he personally examines the cancelled checks and is himself deceived by the forgery, his failure to discover it will not shift on him the loss which belongs to the bank. Banks are bound to know the signature of their dealers, and if they pay forged checks they commit the first fault, and cannot visit the consequences upon the innocent depositor.

[1] Janin *v.* Bank, Sup. Ct. Cal.

If a depositor commits the examination of his pass book and vouchers to his agents and they fail to discover any deceit, though he would have discovered it had he examined them, the bank cannot justly complain, although the forgeries are not discovered until it is too late to retrieve its position or make reclamation from the forger. [a]

In Pennsylvania, however, the rule that the drawee is liable for payment to the wrong person though done through forgery, has been changed by statute; the bank can, in that state, recover from the holder, the money thus erroneously paid. The mere want of care or diligence in paying a forged paper will not alone preclude the payer from recovering the money.

§ 341. **Payment of Forged Indorsement.** When a check is payable to order, it must be proved that the required order was given—that the indorsement is genuine—in order to apply the drawer's funds to its payment. The burden of proof, of course, rests on the drawer. If the bank pays a forged indorsement, the act is its wrong, and it is liable to the payee, if the check is his property, and if it had not yet come to the hands of such payee, the bank is liable to the drawer for misapplication of his funds, and must replace them. [b]

Only the payee can assert a title to a paper payable to his order, without his indorsement.

We have already seen that after a bank pays on the forged signature of the drawer, it cannot recover, though it may recover in case of payment on a forged indorsement, and mere lapse of time between payment and discovery of the forgery will not deprive it of its remedy unless there be unreasonable delay between discovery and notice.

When several successive indorsers have advanced money on a check or draft and it turns out that neither had a title because the first indorsement was a forgery, each may recover from his immediate indorser.

[a] Frank *v.* Chemical National Bank, 84 N. Y., 209.

[b] Morgan *v.* Bank, 1 Duer, 438.

An indorsement is a warranty by the indorser to each subsequent holder, in good faith, that the instrument itself and all signatures antecedent to his indorsement are genuine; and when these are forgeries the indorser is liable on his warrant to his subsequent holder without demand or notice.

§ 342. **Checks Payable to Bearer.** If a check is drawn payable to some person "or bearer," it is transferable by delivery, without indorsement. A bona fide holder of such a check, obtained for a valuable consideration, even from a thief or finder, acquires a good title to it, and the drawer must bear the loss.

Unless there are reasons for suspecting that he obtained it by fraud, the holder of a check payable to bearer need not prove that he obtained it for a consideration.

§ 343. **When is a Check Due?** A check is generally supposed to be for immediate payment, and not for circulation. It should, therefore, be presented for payment within a reasonable time, usually on the same or the following day after the holder receives it; if he fails to do this and the bank should, in the meantime, become insolvent, he must bear the loss.

A check was drawn on the 20th of September; it ought to have been presented for payment on the 21st, but was not presented until the 26th. This is, therefore, just like the case of a note or bill of exchange taken after maturity, and the party taking it has no better title than the person from whom he received it, and cannot recover upon it.[c] This doctrine is, however, not generally held.[d] See § 355.

§ 344. **Indorsement for Identification.** Checks and drafts are often indorsed for no other purpose than to identify the holder, and when this can be proven the indorser cannot be held liable as an indorser. By writing the words, "For identification," after his name on the back of the check or draft, the indorser will avoid the burden of proof which would oth-

[c] Down *v.* Halling, 4 Barn. & Cr., 330.

[d] Rothschild *v.* Corney, 9 Barn & Cr., 388.

erwise fall on him. Such an indorsement relates only to the identity of the holder and to nothing else. The question in such a case is, for what purpose did the indorser bind himself? "For as he bound himself will he be bound."*

§ 345. **Indorsement for Deposit.** Many checks, drawn on other banks, are paid as a matter of convenience to a bank's customers. There are several ways of indorsing such checks. By writing only his name on the back—a blank indorsement—the payee makes it payable to bearer, and it then comes under the same rules as if originally drawn payable to bearer.

A form often used is, "For deposit only, for the credit of_____," but this transfers the title, and if it is followed up by similar indorsements it changes title at every stage. If after the drawee bank has paid and the money starts on its return trip, any bank through which it passes should fail with the money in its possession, that money would go into its general fund to be distributed pro rata among the creditors.

If the original holder were to indorse thus: "Collect for my account," or "For deposit," or "For deposit at ____ Bank," these words imply that the holder has not parted with his title, and that all subsequent holders are agents for the purpose of collecting only. In such a case, should the bank fail, as above, the original holder could compel the receiver to pay over the amount to him in full. "For collection and deposit" is a form much used.

Of all these the one by blank indorsement is probably the least desirable. To obviate the trouble of writing the words "For deposit," etc., most banks use a rubber stamp, leaving a blank for the signature.

In case of checks payable to bearer, the safer plan is to write across the *face* "See indorsement," or "For deposit."

§ 346. **Certificate of Deposit.** A man wishes to deposit a hundred or five hundred dollars with a bank. He does not

* Press *v.* Bank, 26 La. Ann., 744.

care to open an account with the bank, so he is given a certificate of deposit. See form § 255.

This form adds to a bank's original undertaking as a depositary and binds it to pay to the bona fide holder, who returns it properly indorsed, even though it had, for any reasons, already paid the original depositor.

Of course many forms of certificates of deposit are used, but they all have the same effect. Here is a form that was held to be a certificate, and therefore subject to the statutes of limitation the same as oral contracts: "Received from Henry Bell, Sixteen hundred dollars on deposit, in national currency."

Much argument has been advanced, pro and con, to show that a certificate of deposit is a promissory note. The Supreme Court of Indiana has probably come nearer than any other to the truth, by asserting that a certificate of deposit is a written contract, and that no parol evidence of any previous or concurrent agreement is admissible to contradict or vary the legal effect of it.

§ 347. **Negotiability of Certificate of Deposit.** A certificate of deposit is negotiable the same as other negotiable paper. To be negotiable, therefore, it must contain the negotiable words, "or order," or "or bearer," must be payable in money, payable absolutely, and contain all other elements of negotiable paper. Many certificates are drawn payable in "current funds," and whether this is considered as meaning money, the student is directed to the laws of his own state. It is considered as money and a certificate drawn payable in current funds is negotiable in Iowa, Tennessee, New York and Wisconsin. A contrary view is held in Pennsylvania, North Carolina and Indiana.

§ 348. **Issue not Forbidden.** Neither the National Bank Act nor the statutes of most of the states, forbid the issue of certificates of deposit.

§ 349. **Grace and Interest.** In some states it is the cus-

tom of banks to regard time certificates of deposit issued by them as payable without grace. This custom is valid and though a certificate, in an Iowa case, was in fact negotiable and entitled to grace, the collecting bank was shielded by the custom in protesting it on the day of its nominal maturity. And if a certificate bears a specified rate of interest this will continue until it is paid.[f]

§ 350. **A Bank Can Take its Own Certificate.** A collecting bank can take its own certificate of deposit in payment for a debt it is collecting. This is a seeming exception to the rule that an agent having a money-demand for collection can receive nothing but money in payment.

A company sent a note and a mortgage to the Monroe (Iowa) County Bank for collection. Massey, the maker of the note and mortgage, paid by delivery to the bank its own certificate of deposit. Before remitting to the plaintiff, the bank failed, and the plaintiff brought suit against Massey to recover the amount. The court remarked that it was shown in evidence that it was customary for all banks to receive their certificates of deposit in payment for claims in the hands of the bank for collection. But it was not necessary to show that the plaintiff had notice of such custom. Courts take judicial notice of the general customs and usages of merchants, and of whatever ought to be generally known within the limits of their jurisdiction, and the system by which nearly all banks transact monetary affairs by the use of checks, drafts and certificates of deposit, and without the actual handling of bank notes or coin, is so well known that no business man, much less a company whose sole occupation is loaning money, [business of plaintiff], should be allowed to profit by pleading ignorance of it. In effect, the plaintiff claimed that Massey should have presented his certificate to the bank, received the money, and then counted it back to the bank in payment for

[f] Haddock *v.* Citizens National Bank, 53 Iowa, 542; Cordell *v.* Bank, 64 Mo., 600; Bolles on Deposits, § 259.

the note. The law does not require any such vain and unnecessary formality in the transaction of business.[s]

§ 351. **Lost Certificate.** If a certificate is lost or stolen before maturity, and containing a blank indorsement, so that afterward an innocent holder for value would attain a good title to it, the original owner must give a bond of indemnity, if the bank pays the amount to him. If the certificate was due at the time of its loss the finder or subsequent holder took it subject to all the equities existing between the original parties, and payment to the original holder would be a bar to another action by any subsequent bona fide or other holder. In such a case the bank is not entitled to a bond of indemnity, since it would be under no legal obligation to recognize the present holder.

§ 352. **Payment by Insolvent Bank.** If a bank is really insolvent, unknown to the holder, who presents his check and receives payment therefor, the bank's assignee cannot recover the amount. The fact that the officers know of the insolvent condition does not affect the case. It had not yet been judicially recognized.

When a bank is declared insolvent, the depositors are general creditors and share with the other creditors.

§ 353. **Uncollected Checks.** If a bank receives a check for collection, and should be declared insolvent before it is collected or credited, the check belongs to the holder and not to the bank. If the bank's receiver should collect such a check, it would belong to the depositor and not to the general creditors. The collection not being made until after insolvency, the check never became the property of the bank.

§ 354. **Presentation of Checks for Payment.** In order to fix the liability of the drawer and indorsers, the holder must present the check for payment in conformity to the rules of law. The law presumes that when the drawer gives a check he will also provide funds at the bank for payment. He

[s] Britain & American Mortgage Co. *v.* Tibbals, 63 Iowa, 468.

is not required to keep funds, indefinitely for that purpose, at the place where the check is payable, for this would be a risk, as the drawee may fail and the funds be lost.

§ 355. **Reasonable Time.** Checks must be presented for payment within a reasonable time. What is a reasonable time is a matter for the courts to decide in each particular case.

If the person who receives the check, and the banker on whom it is drawn, are in the same place, the check must, in the absence of special circumstances, be presented for payment the same day, or at latest, the day after it is received.[h]

If, however, the holder and drawee reside in different places, in the absence of special circumstances, the check must be forwarded for presentation, at the latest, on the day after it is received; and the agent to whom it is forwarded must present it, at the latest, on the day after he receives it.[i]

It is well understood that a check is an appropriation, as between the drawer and the holder, to the latter, of so much money in the banker's hands. Now the holder may allow the money to remain with the banker and the drawer cannot complain unless he is injured thereby, but the risk of allowing the money to remain in the banker's hands after the next day after he receives the check rests upon the holder. For if the demand is not thus regularly made, and in the meantime the banker should fail, the loss would fall on the holder, who, by his neglect, will make the check his own, at his sole risk. The reason for this stringency is that a check is intended for immediate payment, and not for circulation, and it is, therefore, the holder's duty to present it for payment within a reasonable time, or suffer the consequences.

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[h] Wear *v.* Lee, 87 Mo., 358; Simpson *v.* Ins. Co., 44 Cal., 139; Schoolfield *v.* Moon, 9 Heisk., 171.

[i] Griffin *v.* Kemp, 46 Ind., 172; Burkhalter *v.* Bank, 42 N. Y., 538; Bond *v.* Warden, 1 Cholly., 583; Blair *v.* Wilson, 28 Gratt., 165; Woodruff *v.* Plant, 41 Conn., 344.

Of course, the drawer may extend the time for presentment, by either expressed or implied assent. This is well settled.[1]

§ 356. **If the Drawer is not Injured.** We have given the duty of the holder to present the check within a reasonable time, yet the drawer must show that he has suffered some loss or injury by the delay or he will not be relieved from payment. He is treated as a principal debtor, and is not discharged by the laches of the holder in not making proper presentation thereof, or in not giving him notice of dishonor, unless he has suffered some loss or injury thereby, and then only *pro tanto*. The same rule holds regarding the drawee's liability. If the drawee remains solvent and the funds on which the check is drawn are not affected by the delay, the drawee's liability remains in full force.

If the drawer is not to be exonerated from paying unless the delay has caused him some loss or injury, the question naturally arises as to when the holder may be excused from making the presentment as the foregoing rules require.

§ 357. **Holder's Excuse for Delay.** If the drawer has no funds with the drawee, the holder will he excused from making presentation. If the drawer withdraws his funds from the bank before the holder has had a reasonable time for presentment, he is still liable for payment and is not entitled to notice of dishonor. If the drawer never has enough money with the drawee to pay the check, the holder will be excused for not presenting it for two years or more. The drawer cannot be injured by such delay. If the drawer has no funds in the bank when he draws an unexplained check, it is a fraud, and no demand of payment is necessary to bring an action thereon.

If the bank becomes insolvent before the holder has had proper time to make presentment, this will excuse him from doing so. If one draws a check on an insolvent bank, or one

[1] Woodruff *v.* Plant, 41 Conn., 344; Alexander *v.* Birchfield, 7 Man. & G., 1061; Holmes *v.* Roe, 28 N. W., 864.

which at once becomes insolvent, or one in which he has no funds, or one not indebted to him even on a balance of account, he is not in a condition to be injured by a failure to receive a notice of non-payment.

We have seen that the drawer will not be discharged from payment by neglect in presenting the check to the drawee, yet the holder must prove affirmatively that the drawer has not suffered loss or injury

§ 358. **Indorsed Checks.** The presentation for payment must be made within a reasonable time to bind the indorsers for non-payment. Though the indorsers may not have been injured by the delay, yet they are discharged. The presumption of law is that the indorser's interests have been prejudiced by the delay, and his liability cannot be continued.

§ 359. **Notice.** In regard to notice, a check is governed by the same laws as an inland bill of exchange. If the drawer has no funds with the drawee, he is presumed to know it and is, therefore, not entitled to notice. By the same rule, if he has funds with the drawee he is entitled to notice of non-payment and dishonor. Delay in giving him notice will not discharge him, but he is entitled to whatever damages he may have sustained. After proper notice, by the holder, he may bring action against the drawer for the amount.

To charge an indorser with notice of presentation, non-payment and protest, the notice may be sent by a messenger or transmitted through the mails. The holder may also give personal notice. The rules regarding these notices are the same as those regulating all negotiable paper. These rules are matters of statutory regulation and the student is referred to the code of his own state for more definite and satisfactory information. When notice to the indorser is properly given he is held liable, otherwise he will be discharged.

§ 360. **In what Money shall the Paying Teller Pay?** 1. *Counterfeit.* There could be no justice in compelling a check holder to receive counterfeit money for his check simply

because he did not detect the counterfeits at the time of payment. If he receives, by mistake, anything different from what was due, the debtor is not discharged, and he may return the bad money within a reasonable time after discovering the forgery and demand that which is properly due.

2. *Worthless Notes.* Banks sometimes pay out genuine bills which are worthless because the association issuing the same has failed, and also for other reasons. These may be returned the same as counterfeits, even though neither paying teller nor receiver knew that they were worthless at the time of payment.

3. *Legal Tender Money.* In a general deposit, the title immediately passes to the bank and the relation between the bank and depositor is as debtor and creditor. The transaction is, therefore, not affected by the character of the money deposited and the bank becomes liable as a debtor, and the debt can be discharged only by such money as is, by law, a legal tender. Thus if a deposit is made in bank notes of a bank which fails before the deposit is withdrawn, or if made in the deposit bank's own notes, which, at the time, are worth only one-half their face value, the depositor may demand gold, or silver, or other legal tender money in payment.[k]

If a check is paid in what are supposed to be legal tender notes, which are afterward discovered to be not legal tender, the receiver must return them at once. He must use speedy and active diligence to determine their character. In one case[l] the receiver retained the bills of a failed bank seven days, and in another case[m] the receiver retained the notes nearly six weeks without making inquiry. In both cases it was held that the bills could not be returned.

§ 361. **Paying Collections.** If a bank acts as collecting agent and mingles such collections with its general funds, the

[k] Bank *v.* Wister, 2 Pet., 318.

[l] Cambridge *v.* Allenby, 6 Barn. & Cr., 373.

[m] Atwood *v.* Cornwall, 28 Mich., 336.

money collected becomes a deposit and the rules for general deposits apply. If the money collected was depreciated at the time of receiving it, or becomes so before it is paid to the depositor, the bank must bear the loss from such depreciation.[n]

When a bank acts as collection agent it has no right to receive other than legal money, or bills which pass as money by common consent of the community, unless some special authority be given to receive something else.

§ 362. **"Current Funds."** Often a check or bill is drawn payable in "current funds." Such a check is payable in current money; money which is circulating at its face value—without any discount. This means coin or its equivalent—good money—and the holder can demand coin or its equivalent. A check must be payable in money or it does not come within the laws governing checks. And a paper in the form of a check drawn on a closed bank is a mere assignment of a deposit, and not a check at all.

§ 363. **The Statute of Limitations.** When a bank receives deposits to be drawn out by means of checks, there is an implied agreement that the bank is a mere custodian of the money and is not in default, and therefore not liable for damages until demand of payment has been made, and payment refused. The bank does not agree to be, and is not under the obligations of an ordinary debtor. It need not go after the creditor and return the deposit. This being the case the statute of limitations does not begin to operate until demand of payment has been made at the bank, and payment refused.

§ 364. The statute does not begin to run on a certified check until it is presented for payment. When the check is certified the amount is taken from the drawer's account and placed to the credit of the check. The holder becomes a depositor for the amount of the check, and has about the same rights as any other depositor.

[n] Bank *v.* Rushmore, 28 Ill., 463.

Nearly the same rule pertains regarding a certificate of deposit. The statute begins to run, not when issued, but from the time when it is presented for payment.

When a bank discontinues business or suspends payment of specie, such action will set the statute running against the depositor from the time he learns of the event.

A notice by the bank, published in pursuance of law, of unclaimed deposits, revives the debt even though already barred by the statute, and it begins to run again from the date of such publication.

§ 365. **A Banker's Lien.** The general rule regarding a banker's lien is that when a depositor is indebted to a bank by any *matured* indebtedness, it has the right to apply his deposit to the discharge of the debt. This right is not recognized everywhere and the student is referred to his own state laws in regard to the matter. This is the same as is usually known as a general lien, and it requires strong evidence, or a settled and uniform usage, or a particular mode of dealing between the parties to establish it.

The lien of one bank for a balance due from another bank will cover notes and other securities sent to it for collection, which, on their face, belong to the sender.[o]

So when an attorney left a note at a bank for collection without stating for whose account, the bank collected it and applied it to a debt due from the attorney to the bank. A short time afterward the attorney failed, and the bank included the note in its settlement with him. The owner learning that the note had been collected sued the bank for the proceeds, but it was held that the bank had exercised its right of lien properly.[p]

The rule given above for the collection of a note needs some qualification, as in the case of a note indorsed "for collection"; this gives notice that the indorser is entitled to the

[o] Bank *v.* Bank, 1 How., 234.

[p] Wood *v.* Bank, 120 Mass., 358.

money and the proceeds could not be the subject of a lien, such as we have described.

If a depositor is declared a bankrupt, his deposit is a security for the amount due the bank, and may be taken for such payment *pro tanto*. This is on the principle of mutual credits.

§ 366. **A Set-Off.** A bank owes B thirty dollars, and it also has a demand against him for thirty dollars. It has the right to set-off its debt to him against the debt due from him. The right of a set-off is given by statute and exists everywhere. Its object is to enable parties having demands against each other to settle them with the least possible trouble. To set-off a demand, however, the debts must be due between the same parties in the same right.

If a bank becomes insolvent its debtors may set-off its indebtedness to them against their own to the bank. In the same way a depositor of a failed bank may set-off the amount of deposit against his note held by the bank.[q]

If a depositor becomes insolvent and is indebted to the bank on notes, his deposit may be set-off against the amount of his notes.[r]

But a bank will not be permitted to set-off a debt due to it from a holder of a check when presenting it for payment. The holder of a check is usually regarded as an agent for the drawer to obtain from the bank the money due from the drawer. A check is not absolute payment, only a means of getting the money.

In some cases it has been decided that equity will allow and enforce a set-off of a debt not yet due against a depositor's account. For instance, if a maker of a note, which is held by a bank, dies before the maturity of the note and his estate be insolvent, the bank has a right, through equity, to set-off

[q] Receivers *v.* Light Co., 23 N. J., 283; See also Receiver *v.* Patterson, 3 Zabriskie, 283; and Yardley *v.* Clothier, Cir. Ct. Penn., 1892.

[r] Kip *v.* Bank, 10 Johns, 63.

enough of his deposit with the bank to pay the note, even though there are claims of superior dignity against the estate. It was held that the deposit was not a part of the general assets of the depositor, but only the excess above what was necessary to pay the note due the bank. The bank was debtor only for the difference. Although the bank could not at law set-off an unmatured debt, yet upon proof of insolvency or danger of insolvency equity will stop the payment. There can be no question but that the bank had the right to stop the amount in its own hands, upon showing to a court of equity that the maker was insolvent.[a]

§ 367. **Lien on Bank Stock.** There can be no lien on the stock of a stockholder to secure a debt due to a national bank. Neither by the National Bank Act nor by the by-laws, can a national bank create such a lien. Even though an agreement is made with a stockholder that his stock is to be pledged to secure the bank on future indebtedness, there is no lien. Such liens are contrary to the whole policy of the Bank Act.[b] But a national bank can hold the cash dividends of a stockholder pledged for his debt.[c]

In a state bank a lien on stock may be created by charter, statute, or by-laws. But the directors have no power to delegate authority to the officers of the bank to create a lien; such authority must come from one of the sources mentioned.

The right to pledge stock depends largely on the charter and by-laws, which relate to the holding, pledging and transferring of stock. Where a bank's stock certificates contained the provision that they were "transferable at the office of the company in person, or by attorney," C. borrowed money from Mrs. Pinson, on the stock owned by him, and indorsed them as follows: "For value received I assign this certificate of stock to Mrs. Pinson, and authorize her, as my attorney, to

[a] Administrator *v.* Thornton, 3 Leigh, 695.
[b] Knight *v.* Bank, 3 Cliff., 429; Bank *v.* Lanier, 11 Wallace, 369.
[c] Hager *v.* Bank, 63 Me., 509.

demand and have transfer of the same made to her on the books of the company." When Mrs. Pinson presented the stock for transfer the bank refused, stating that C. owed the bank and that it had a lien on the stock for the debt. It was shown that at the time of the assignment Mrs. Pinson had no notice, either actual or constructive, of the lien; and that by the regulation regarding the mode of transfer she had a right to presume that it was all right. It was held that she was an innocent purchaser for value, without notice of the bank's lien, and she held the stock.[v]

§ 368. **Payment of a Depositor's Notes.** Notes are often drawn payable at the drawer's bank, and the general rule is that such a note is equivalent to a check drawn on the bank by the depositor, and being thus a draft on the institution, in favor of the holder, the bank's duty to pay it is hardly less imperative than its duty to pay the depositor's checks. This rule is not recognized, however, in Massachusetts, Illinois, nor Indiana. In all cases where the bank pays such notes it has a right to demand a surrender of the note before payment.

Many times the depositor leaves money at the bank for the purpose of paying his notes payable at the bank. If he does this and gives particular instructions as to the payments to be made, such directions must be followed. In all instances where a maker of a note, payable at a bank, whether he be a depositor or not, leaves money at the bank for payment, he is discharged from all further liability. The bank then becomes directly liable to the holder.

While a bank has a right to apply a depositor's funds to the payment of his note, it has no right to make any such application before the note has matured—not before the last day of grace.

If a bank discounts a note for a depositor and payment is not made when the note is due, it may apply his deposit, or one subsequently made, whether in the ordinary way or by

[v] Bank *v.* Pinson, 58 Miss., 422.

leaving business paper for collection, to the payment of such obligation."

§ 369. **Gold.** A paying teller ought to have some information regarding the production, weight and bulk of gold and silver, and we here present a few of the leading facts pertaining to such metals. Since the earliest times there have been produced in the world about $14,500,000,000 worth of gold, and of this there is only a little more than $8,000,000,000 in the world at the present time. What has become of the other $6,000,000,000? is almost as hard to answer as the question, where do the pins go?

In ancient history we read of innumerable ornamentations, which were said to be made of pure gold; of the temples that were richly embellished with solid gold; of the sacrifices of golden vases, bowls, images, and many other articles of pure gold. It is said that when Crœsus was about to go to war against Cyrus the Great, that in order to propitiate the god, he sent to the oracle of Apollo, at Delphi: 117 ingots of pure gold, nine inches thick and from nine to eighteen inches long; a life-size figure of a lion of fine gold; a golden tripod; a statue of a woman of pure gold, four and a half feet high; necklaces and bows and girdles of gold by the dozen. Where is all this golden jewelry and these ancient articles of solid gold?

Gold, as a metal, has some very peculiar characteristics which are not fully understood by even the eminent scientists who give it the most attention.[x] Some philosophers hold to the opinion that it evaporates. Though the most completely proof against rust and fire of all the metals, it is, at the same time, wonderful stuff for wearing out. And this element of wearing out seems to answer the question of where it goes. As every one knows, a finger ring of gold will wear out in only a few years; a gold-plated chain will after a while show the under metal, the gold having worn away.

[w] Muench *v.* Bank, 11 Mo., App., 144.

[x] Many of the ideas contained in § 369 to § 390, inclusive, have been taken from Patten's work on Practical Banking.

§ 370. **Gold in a Bulk.** If all the gold in the world was dumped in one solid mass it would make a pile fifty feet square and twenty-six feet high. These figures will, no doubt, surprise many who think the pile ought to be much larger, but such a pile would contain the entire $8,000,000,000—the world's stock of gold—coin, jewelry and all. It would tip the scales at about 30,000,000 pounds.

§ 371. **Carat.** The word carat comes from a Greek word meaning berry. This berry was used by the Greeks as a weight of four grains; and in this country and in England, when carat is used by the jewelers to express weight it means four grains. In other countries it varies from this. It is used in weighing pearls and precious stones. The term, however, is generally used to express the purity of gold. The whole mass is divided into twenty-four parts and is called gold of as many carats as there are parts of pure gold. For e. g., a ring is said to be eighteen carat fine, if eighteen of the twenty-four parts composing it are of pure gold. Pure gold is a very soft substance, and cannot well be used in jewelry, such as watches, chains, etc., until it is hardened by an alloy to about fourteen or sixteen carats. Even when used as a coin it must be hardened somewhat or it would wear out quickly. The American gold coins are alloyed with copper to a standard of 21.6 carats. The gold coins of some countries are alloyed with silver. The gold coins of France and England have a standard of 22 carats.

§ 372. **Relative Value of Gold and Silver.** The annual production of gold is about $100,000,000, but since 1861 there has been a steady, constant decrease in the production, while we find that the consumption is continually increasing.

The price of all the products of the world is governed largely by the law of supply and demand, and this is no less true of gold than other products. The increased demand and decreasing supply is the cause of the rising tendency in the price of gold.

On the other hand silver has been steadily falling in price for a long time, until our silver dollar is worth only about fifty or fifty-five cents on the world's exchange. The reason for this fall is in the fact that the production has been greater than the demand.

Another reason for this change is that less silver is used in the arts and the mechanics than formerly. This is particularly true in European countries. Business depression decreases the use of silverware in families. Then again the growing custom of using silver-plated ware instead of solid silver articles has much to do with the change. There seems to be no need of buying solid silverware to tempt thieves, when plated ware looks as well and costs much less. But all the while the demand for gold to be used in the arts is increasing. It is stated that in these days of poor teeth there is on an average a dollar's worth of gold in the mouth of every adult; consequently every generation buries in the cemeteries nearly a billion dollars' worth of gold.

§ 373. **The Teller's Specie.** The gold in our banks is generally in charge of the paying tellers, and is piled in bags containing $5,000 each. Each $5,000 weighs twenty-two pounds, and the bags taken in by the paying teller, from whatever source, are by him weighed and examined. That is, it must be turned out into a scale, weighed and examined to see if it is the genuine article, and poured back into the bag. It would not be safe to store it away in a bank vault without making such an examination. If a teller looks only at the tag and not at the contents, it is difficult to say whether he is receiving gold or copper.

However, in large cities bags of gold and packages of money are transferred from bank to bank without examination, as verified by the following from an interview with Bank Examiner Sturgis, of Chicago:

"The First National Bank of Chicago has about $8,000,000 in cash. I usually count it between 2 o'clock on Saturday

afternoon and midnight. Counting the cash of a bank is really the easiest of an examiner's duties. There is one little package in the First National Bank of Chicago not much larger than an ordinary sized novel, that contains $1,050,000. That package has been undisturbed for one year, has had my seal on it, I think, for longer than that. It is made up of $10,000 gold certificates. The reserve cash of all the banks, and it is by far the largest share of their cash, is very rarely touched, is made up of very large bills or of bags of coin, and may rest in one place for years. I have no doubt there are packages of currency in some of the banks which have not been touched for five years. It is never necessary to undo these packages. They are all under seal, and the bank whose seal is attached guarantees them. They are called Clearing-house packages, and are used to pay balances. On some of these packages besides my own certificate are the seals of a half dozen banking institutions. Each seal contains a guarantee to a certain date. As that date approaches, if the package has not been opened, the guarantee of correctness of count is renewed by an official from the bank first issuing it. It is the same way in regard to bags of coin, seals being on all of them, sometimes a treasury, sometimes a bank, sometimes the bank examiner's seal."

§ 374. **Light Weight Coins.** Then the weight often varies, but it must be only slightly. If a $5,000 bag is found to fall one-half of one per cent. short of twenty-two pounds, the paying teller must hunt out the light weight coins and seek reclamation from the party paying them in. If the gold belongs to the bank, and there is no one to look to for the loss on the light weights, they are taken to specie dealers and sold for what they will bring. A teller has little difficulty in detecting the light coins, which almost invariably show their lightness by their smooth appearance.

When a light coin gets into the hands of the United States Treasurers, the law compels them to stamp it "short" and thus end its travels.

§ 375. **Clipping.** There are men who will do almost anything to make a living in any but an honest way. Clipping consists in clipping or cutting pieces out of gold coins.

§ 376. **Splitting and Sweating.** Of course there are several ways of debasing gold coins and one way that it is sometimes successfully done is by splitting the coins and taking gold from each side, and replacing lead or some other heavy metal and deftly soldering the two pieces together again.

Sweating is a very ancient mode of cheating and is easily accomplished. It is done by placing gold coins in a strong bag and patiently shaking them together until the friction of rubbing together wears off enough gold dust to give the sweater a good round profit.

The natural and unavoidable loss of gold, resulting from the ordinary handling of the bags, gives one a good idea of the profit to be derived from the sweating process. In pouring a bag of gold into the scales and back again into the bag there will be quite a sprinkling of gold dust left on the bottom of the scales.

It seems that gold cannot be handled or moved without more or less loss from this cause, so that this feature of gold coin becomes a very interesting one. It is estimated that there is a loss of from $85 to $90 from abrasion, on every million dollars of gold shipped across the ocean. That is, when a gold shipper sends a million dollars of gold across the ocean, he calculates that there will occur a loss of from $85 to $90 from the natural rubbing of the coins during the voyage.

§ 377. **The Care of Gold.** An experienced teller, of course, knows that gold is easily worn and defaced, and that it must be handled very carefully and in just the right way. When put into the $5,000 bags it must not be tied too tightly. Space must be left between the string and the gold so that the coin will have room to swim around loosely whenever the bag is moved. If tied tightly the coins will cut and grind each other and likewise strain harder upon the bag. It is quite an art to properly bag gold.

In banks in eastern cities the paying teller often does up the parcels of gold to be shipped to foreign countries. In shipping to England, double eagles are usually sent. These are selected because there is less shrinkage on them than on smaller coin. These are packed in small, but strong pine boxes, or kegs about the size of nail kegs. In either case the parcels are securely sealed. Some shippers seal the boxes by sinking the screws deeply in the boxes and then covering them with their wax seals.

§ 378. **Gold Shipments.** When gold is shipped to other countries—to England, for example—it is useless as money. In England they have no such things as dollars and cents; it is pounds, shillings and pence. Their coin in this country and our coin there, is uncurrent and becomes simply merchandise. Uncurrent coin is taken to dealers in specie who sell it to manufacturing jewelers, to travelers who are going to countries where such coin is current, or to the Mints where it is recast into current coin.

If bullion could be obtained we would send it instead of the American coined gold, but in this country it is almost impossible to obtain bullion for shipment. In England the shipper can get bullion gold, for the Bank of England has immense stocks of it, from which are drawn the shipments of gold that England makes to all parts of the world.

§ 379. **How Gold is Shipped.** Gold shippers do not go to the Sub-Treasury for their gold, though of course, if they have gold certificates these may be presented and the precious metal received for them. It is the Bank of North America that furnishes the great bulk of gold for shipment, and has become, by a sort of arrangement with the banks, a general depot for gold deposits. The bags, which are made at a factory in connection with the bank, are of strong canvas and hold $5,000. In the rear of the bank the packing is witnessed by a representative of the shipper. Ten bags are placed in a stout keg of hardwood, strongly bound with iron hoops.

These kegs are also made at the bank. When the keg is filled and the head put in, a tape check is applied; four holes are bored through the ends of the staves above the head and bottom of the keg, and red tape run through, the ends being brought together at the center of the head where they are secured with a great seal of wax bearing the shipper's name. The kegs are then carted to the ship's landing. Some shippers insure, some do not. Often a large shipment of one or two million dollars will be sent by half a dozen different steamers—the precaution being not to trust too much to one boat.

When gold bars—bullion—is shipped, it is duly stamped with the weight and fineness in the United States Assay office adjoining the Sub-Treasury building at New York. The same kegs are used, but instead of the canvas bags, closely packed sawdust is used to keep the bars apart, and the loss from abrasion is greatly reduced.

There seems to be very little danger of robbery in transporting gold through the streets of a great city. A thief has no chance at all. The instructions to the treasure-guarders, who accompany the shipment, is to shoot to kill at the first assurance that a plan of robbery is about to be attempted. A rush for such gold would be piracy on dry land, and, in the modern code, piracy means death. Anyway the Habitual Vagrant Act enables the police to arrest any crook or bad character at any time, and have him up for an explanation before the police judge, and this is what is done when any suspicious character is found in the jewelry or banking section.

Another important phase of the specie shipment problem is the transportation of valuables across the continent. The government depends upon the private express companies for this work. For a quarter of a century the Adams Express company had a monopoly on handling the United States' cash. The several Mints and the various Sub-Treasuries are always transporting gold or silver in coin and bullion. The Adams

Express charged twenty-five cents for $1,000 handled, but the United States Express put in a bid for fifteen cents per $1,000 and now has the contract. This contract is to cover the transfer of all sorts of securities, mutilated money, coin, bullion, etc., between the Treasury and the national banks of the country. The express company gives a bond of $500,000 to secure the government, and it makes good all losses.

§ 380. **Silver Shipments.** The paying teller is sometimes required to pay out silver coins for shipment. Most of our silver shipments of late years, however, have been in the shape of bricks. Sometimes a shipment of silver coin goes to China to pay for teas, etc.

The Chinese will have nothing but silver, and it must be of just the right kind or they will not take it. At one time they would have nothing but the Mexican dollar, and our own trade dollar was prepared to suit their taste. A Chinese coin tester exhibits wonderful skill in judging of the merits of a coin. He will pass a keg of silver dollars through his hands with great rapidity, rejecting the light weight and otherwise defective coins, by mere sense of touch.

§ 381. **Test for Gold and Silver.** The tests given here are those used by the United States Mints. Use the liquids as near the edge of the suspected coin as possible, that being the part most worn. The preparation will have no effect on a genuine coin, but a drop of it will produce an easily distinguished action on a counterfeit. If the coin is heavily plated, scrape slightly before using.

For Gold. Strong aqua fortis (368) 39 parts; aqua regia 1 part; water 20 parts.

For Silver. Twenty-four grs. lunar caustic; 30 drops of aqua fortis; 1 oz. of water.

§ 382. **Coining Silver Dollars.** The first silver dollar was coined in 1794 under the act of April 2, 1792, and weighed 416 grains, 297 parts pure to 36 parts alloy. Since then the coin has undergone many changes, and been much improved. The

issue of 1804 is the scarcest of the American silver dollars. There are only six or seven of them in existence, and they are called the "King of American Rarities." The story goes that almost the entire coinage of 1804 was being shipped to China and the vessel and all on board was lost at sea.

§ 383. **The National Mottoes.** The motto *E Pluribus Unum*, found on many coins, was never authorized by law, and was first used on a half penny struck in New Jersey in 1786. It was placed on gold coin in 1792, but was dropped from most coin between 1836 and 1866. It was revived again with the issue of the trade dollar in 1873.

"*In God We Trust.*" In 1864, plans were submitted for a new 3-cent, 2-cent and 1-cent piece, on which it was proposed to place the following mottoes in accordance with the suggestion of some minister who thought the coins should recognize the Deity: "Our Country, Our God," "God our Trust." Mr. Chase, the Secretary of the Treasury, suggested a change to, "In God We Trust," and this appeared for the first time on the 2-cent piece issued in 1864.

§ 384. **"M" on the Silver Dollar.** The minute letter "M" stamped on Liberty just at the point where the front lock of hair ends on the neck, does not stand for "mint," as many suppose, nor is it an evidence that the coin is genuine. It stands for Morgan—Geo. T. Morgan, who originated the design. He also stamped the letter "M" on the reverse side on the left half of the loop of ribbon tied around the wreath.

Mr. Morgan selected as a model for the head of Liberty, a young school teacher, Miss Anna Williams, of Philadelphia, who had the "purely American features."

§ 385. **The Dollar Sign.** Several theories are advanced as to the derivation of the dollar mark. First, that it came from the letters "U and S," which was affixed to the currency of the new United States. These initials were afterward run together so as to form the sign. Second, that it is derived

from the representation of the Pillars of Hercules, consisting of two pillars and a scroll. The old Spanish "pillar dollar" contained this design. Third, that it is from the Spanish word *pesos*, meaning hard money. Fourth, that it is a modification of the figure 8, the dollar being formerly called "a piece of 8" and designated by the symbol 8–8 or $\frac{8}{8}$. The two eights and the double hyphen gradually changed until it became $. This is the more plausible theory. One of the lines has now been dropped by some and we have $.

§ 386. **Split Coin.** The stamping machine at the Mint sometimes comes down too hard on the coins and splits them. These are mostly five dollar gold pieces, though occasionally a ten or twenty will split. They are, however, very careful at the Mint and stop all split coins that they detect. The split coin usually seems perfect, and the defect can be detected only by the peculiar dull ring when thrown on the counter.

§ 387. **United States Paper Money.** These are called "United States notes," "legal tenders," "greenbacks," "United States demand notes," etc. We cannot see that they are any more a legal tender than any other class of lawful United States money; nor that their backs are any greener in hue than many of the national bank bills. As to their being United States demand notes, this is a misnomer, for it is a curious fact, and one that few people have noticed, that, unlike any other paper money afloat, either in this country or abroad, they are actually not even payable on demand. They read, "The United States will pay the bearer," while all other paper money of all lands reads, "Will pay the bearer on demand." There are about $346,500,000 in these notes now in circulation.

United States notes are redeemed by the U. S. Treasurer, or any of his nine assistants, in specie, but this does not mean gold, only at the government's option; and it is this silver option which the government has, that leads London to quote United States notes at eighty-five cents, and induces bankers

and others to hoard up gold when a panic comes or is threatened.

Our United States notes are good money in our own nation, but in the world's exchanges they are short by the world's difference in quotations of gold and silver. And so they will remain until they are redeemable in gold or the world of exchange adopts a bi-metallic standard.

§ 388. **National Bank Notes.** As we have already seen these are the bank's demand promissory notes. They are not lawful money. They are not a legal tender between man and man except when not objected to on account of their not being money. They are legal tenders, however, between individuals and national banks, for national banks are obliged to receive them for debts due. They are redeemable at a central bureau in Washington and over the issuing bank's counter, in lawful money (Treasury notes, United States notes, gold and silver); their market value being, therefore, the same as the United States notes. There are about $186,000,000 in national bank notes in circulation (1894).

§ 388*a*. **Coin Standing of National Bank Notes.** National bank notes are secured by U. S. bonds, and they are well secured, for there are, estimated at par, $100 in bonds behind each $90 in notes outstanding. All these notes are redeemable either at the redemption bureau at Washington or at the bank's own counter. And they are redeemable in lawful money of the United States. And the law says that lawful money is legal tenders, silver dollars and gold to any amount, and fractional silver to the extent of $5. This brings the national bank notes to a silver basis. So that every dollar of the national bank notes can be lawfully redeemed in silver. Of course, this fact is of but little consequence as long as gold is not at a premium. But the moment that gold touches a premium this silver option on national bank bills will make quite a disturbance. The question as to whether gold is advancing to a premium can be answered only by future developments.

§ 389. **Silver and Gold Certificates.** As provided by law, silver certificates are issued on a special deposit of silver at the Treasury of the United States. They are receivable by all national banks for debts due, and count as a part of a bank's legal reserve. National banks that are members of any Clearing-house are compelled to accept them in payment of Clearing-house balances. National banks cannot take them for security for loans; they cannot lock them up and withhold them from circulation.

These silver certificates were issued under act of Congress of Feb. 28, 1878, and all read "payable to the bearer on demand so many silver dollars," at the Treasurer's office. They are not a legal tender, but are so near being so, from the fact that they can be taken to the nearest Sub-Treasury and exchanged for silver, that they practically do legal tender work in our currency.

Gold certificates are issued under about the same regulations, in amounts not less than $20.

§ 390. **Worn and Fragmentary Paper Money.** One of the great governmental questions which are hard to answer is, how to keep paper money in a presentable condition. It becomes torn and filthy and unfit for circulation. The paper money of to-day is far superior to that of any other age. But with this excellent money has come a custom among men of using it in a careless and slovenly way. They wad it into small purses, jam it into trousers pockets among whatever chances to be therein, or they stuff it into vest pockets with as little care as possible. Men seem to think that it makes no difference so long as it is still fit for passage to the next man. But those same men object to the worn and filthy condition of the currency and often blame Congress for its condition. If each one would be careful in handling paper currency it would not be in such condition.

New, fresh, crisp notes always give an additional thrill of pleasure. Besides, however, torn and spoiled money, which

has passed through many hands, been thumbed by persons afflicted with contagious diseases, and well fingered by the "great unwashed," is a constant menace to public health.

In this respect it is within the power of paying tellers to make great improvements. In all his work the paying teller ought to be a criterion of neatness, and if he would exert a little pains in having on hand, for the needs of the retail branch of his bank, an ample supply of nice, new, bright, and unmutilated paper money, of the smaller denominations, and new, bright coin of all kinds, we would see the condition of our money much improved. With but little trouble or expense, especially in our large cities, paying tellers may obtain new small bills, silver and pennies for old ones at the United States Treasury.

§ 391. **Redemption of National Bank Notes.** § 391 to § 395, inclusive, are from the Treasurer's circular on the Issue and Redemption of the Currency:

1. National bank notes are redeemable by the Treasurer in sums of $1,000, or any multiple thereof.

2. Notes equalling or exceeding three-fifths of their original proportions and bearing the name of the bank and the signature of one of its officers, are redeemable at their face value.

3. Notes of which less than three-fifths remain, or from which both signatures are lacking, are not redeemed by the Treasurer, but should be presented for redemption to the bank of issue. Fragments less than three-fifths are accepted from the bank of issue for face value by the Treasurer only when accompanied by evidence, as required by paragraph 9, that the missing portions have been totally destroyed.

4. Fragments redeemed by the bank of issue for less than face value are accepted by the Treasurer only when their valuation is equal to the face value of a note of some denomination issued by the bank, or some multiple thereof. The required valuation may be made up of several fragments of notes of the same or different denominations. Fragments not

clearly more than two-fifths are accepted only when accompanied by evidence, as required by paragraph 9, that the missing portions have been totally destroyed.

5. It having been decided that national bank notes, stolen when unsigned, and put in circulation with forged signatures, are not obligatory promissory notes of the bank under § 5182 of the Revised Statutes, they are not redeemed by the Treasurer.

§ 392. **Redemption of United States Paper Currency.** 6. The Treasurer will forward new United States notes by express, at the expense of the consignee, at government contract rates, or by registered mail, registration free, at the risk of the consignee, in return for United States notes unfit for circulation, national bank notes, fractional silver coin, and minor coin.[7]

7. United States notes, fractional currency notes, gold certificates, silver certificates, and Treasury notes of 1890, are redeemable by the Treasurer, and when not mutilated so that less than three-fifths of the original proportions remain, by the several Assistant Treasurers, at face value. United States notes are redeemable in coin, in sums not less than $50, by the Assistant Treasurers in New York and San Francisco. Silver certificates are redeemable in standard silver dollars only, or exchangeable for other silver certificates.

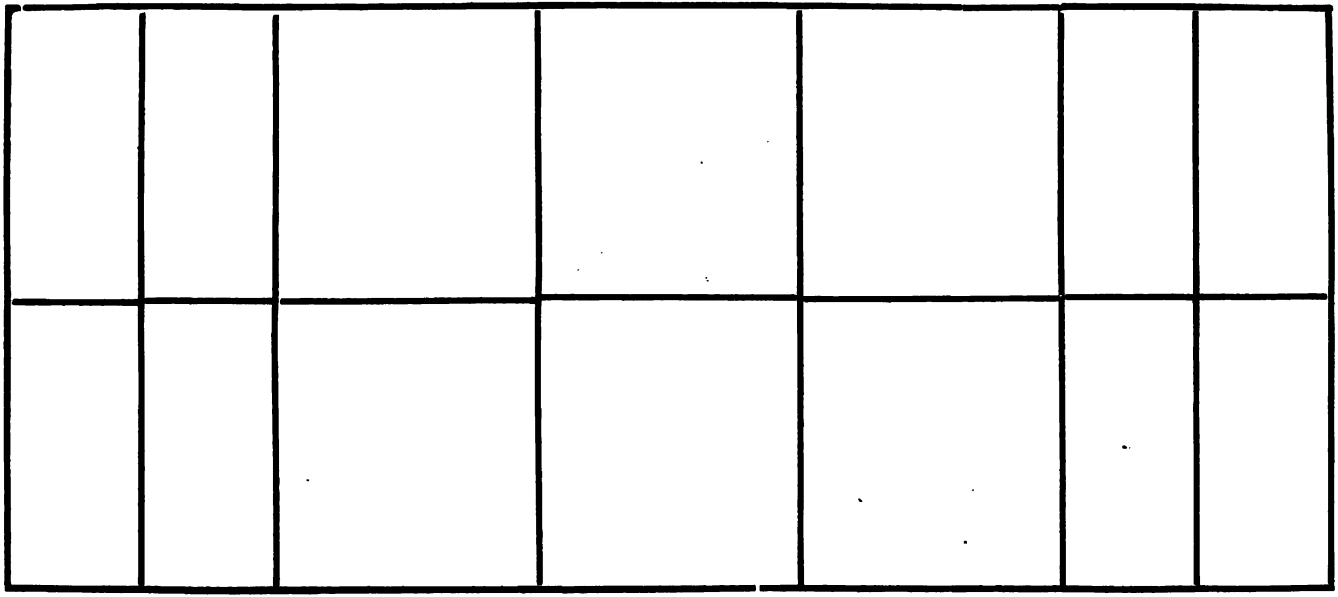
8. United States notes, fractional currency notes, gold certificates, silver certificates, and Treasury notes of 1890, when mutilated so that less than three-fifths, but clearly more than two-fifths, of the original proportions remain, are redeemable by the Treasurer only, at one-half the face value of the whole note or certificate. Fragments not clearly more than two-fifths are not redeemed, unless accompanied by the evidence required in paragraph 9.

9. Fragments less than three-fifths are redeemed at the face value of the whole note when accompanied by an affidavit of the owner or other persons having knowledge of the

[7] Minor coin is any coin other than silver or gold.

FAC SIMILE OF THE DISCOUNT GLASS

AT THE NATIONAL BANK REDEMPTION BUREAU FOR DISCOUNTING NATIONAL BANK NOTES.



For an explanation of the mode of discounting national bank notes, see § 391, paragraphs 2 and 3.

facts that the missing portions have been totally destroyed. The affidavit must state the cause and manner of the mutilation, and must be sworn to and subscribed before an officer qualified to administer oaths, who must affix his official seal thereto, and the character of the affiant must be certified to be good by such officer or some other having an official seal. Signatures by mark [X] must be witnessed by two persons who can write, and who must give their places of residence. The Treasurer will exercise such discretion under this regulation as may seem to him needful to protect the United States from fraud. Fragments not redeemable are rejected and returned.

§ 393. **Redemption or Exchange of Fractional Silver Coin, Minor Coin, and Standard Silver Dollars.** 10. Fractional silver coin and coins of copper, bronze, or copper-nickel, may be presented in sums or multiples of $20, assorted by denominations in separate packages, to the Treasurer, or an Assistant Treasurer, for redemption or exchange into lawful money, and standard silver dollars for exchange into silver certificates only. When forwarded by express, the charges should be prepaid.

11. No foreign or mutilated silver coin will be redeemed. Reduction by natural abrasion is not considered mutilation.

12. Minor coin that is so defaced as not to be readily identified, or that is punched or clipped, will not be redeemed or exchanged. Pieces that are stamped, bent or twisted out of shape, or otherwise imperfect, but showing no material loss of metal, will be redeemed.

§ 394. **Transmission to the Treasurer.** 13. United States notes, gold certificates, silver certificates, Treasury notes of 1890, and national bank notes should be forwarded in separate remittances. The notes should be assorted by denominations and inclosed in paper straps, not more than 100 notes to each strap, and the straps should be marked with

the amount of their contents. Not more than 8,000 notes should be put in one package.

14. An inventory, giving the amount of each denomination of notes, the total amount in the package, the address of the party sending, and the disposition to be made of the proceeds, should be inclosed with each package, and a letter of advice sent by mail.

15. The package, if it be sent by express, should be sealed up in stout paper and addressed to the "Treasurer of the United States, Washington, D. C." The wrapper should be plainly marked with the owner's name and address, the amount and kind of currency inclosed, and, if the sender desires the benefit of the Government contract, with the words "under Government contract with the United States Express Company."

16. It is the duty of postmasters to register free of charge all letters on which the postage has been fully prepaid, addressed to the Treasurer, containing currency of the United States for redemption. It is recommended that all such letters be registered as a protection against loss.

17. Remittances of money by mail should be addressed to the "Treasurer of the United States, Washington, D. C." Such remittances and returns therefor by mail are invariably at the risk of the owners. All communications to the Treasurer in regard to packages lost in the mail are referred for investigation to the Chief Post-Office Inspector, Post-Office Department, Washington, D. C., to whom any subsequent inquiry on the subject should be addressed.

§ 395. **Express Charges.** 18. The Government contract with the United States Express Company for the transportation of moneys and securities extends to all points accessible through established express lines reached by continuous railway communications, but does not embrace sea or river transportation of any kind, and does not extend westward

beyond the Missouri River, but includes the states of Missouri, Arkansas, and Texas.

19. The contract rates for the transportation of all kinds of paper currency to or from Washington are—between Washington and points in the territory of the United States Express Company and reached by it, 15 cents per $1,000; sums of $500 or less, 10 cents. The charge to points not reached by the United States Express Company varies greatly, and may be ascertained by application to the Treasurer of the United States.

§ 396. **Redemption of Worn Money.** Of course any one may find in his hands worn and filthy bills, no matter how great care may be exercised. These, of course, will be properly redeemed when presented for that purpose.

If the whole face of the bill is present and in a condition to admit of recognition it will be redeemed at face value no matter how dirty it may be. Even if every signature, written or engraved, be indecipherable, or washed or worn entirely away, yet the bill will be redeemed.

§ 397. **Detection of Counterfeit Paper Money.** Men who have the most experience in hunting for or finding counterfeit money, say that the only rule by which one may become skilled in detecting counterfeits is a study of genuine bills. The man loaded with bad money, who professes to have the great secret of detecting the spurious article, and who wants ten or twenty dollars for a divulgence of the great mystery, has visited about all communities. He is a fraud. There is no royal road to knowledge. There is none to experience. Careful study, painstaking toil, and a liking for the work will make any one an expert. You cannot learn to detect bad money by a study of bad money. Study good money until you know whether a bill is good or not. A sufficient amount of study of genuine bills will enable any one to detect and condemn bad money at sight.

The issues of United States notes prior to 1869 were printed

on plain bank-note paper. Later issues are printed on fiber paper. There are many counterfeits of the old notes, and quite a number of the later issue. The Secret Service Bureau of the Treasury Department is managed with such skill that advice of any attempt to float counterfeit money is furnished to the bankers before the counterfeiter's plans are carried out.

§ 398. **Check Letters.** All United States paper money is printed in sheets of four notes of one denomination. Each note is lettered in its respective order on each end, A, B, C, D. The number on each bill bears a certain relation to this check letter. If the number on a bill be divided by four with one as a remainder, the check letter is A; two remainder, B; three remainder, C; no remainder, D. Any paper money upon which the number cannot be divided by four and exhibit the above result is a counterfeit.

This, however, is not an infallible rule for finding counterfeits, as the counterfeiter might make his notes to correspond with this result. Long experience in handling money and continued study of genuine bills is the only rule to follow in becoming an expert detective of counterfeits.

§ 399. **Publishing Counterfeits.** "Counterfeits do not appear until after the genuine has been some time in use, and every part of it is well known. It is not so wonderful, then, that after this daily familiarity with the appearance of a note the first deviation from it should attract attention. Exactly what it is that does expose the counterfeit the best experts find it difficult to tell. They say they know it instinctively. They judge not only by the looks of a note but by the feel of it.

"It is obvious that a counterfeit note must be widely circulated to make it profitable. No sooner does a counterfeit appear than its description is widely published. Those who are likely to suffer by taking counterfeit notes make it their business to be on the lookout for new counterfeits, which are

distinguishable by some easily discovered mark. A teller knows just what denomination of notes has been counterfeited, and just where to look for the tell-tale marks. He notices the counterfeits as easily as the reader notices a misspelled word. It is no particular effort. It is habit, and becomes a second nature.

§ 400. **Inferior Quality of Counterfeits.** "One, and the main reason, why counterfeits are easily detected, is because in some features they are almost uniformly of inferior quality. This is, indeed, the main protection to the public. Genuine notes are engraved and printed almost regardless of cost, and the very best materials are used in the engraving and printing. It is done in large establishments with costly materials and the best workmen. It is practically impossible for counterfeiters to do work as well. They must work in secret and at a disadvantage, and of necessity cannot have the experience to produce such perfect work. If they get the engraving done nicely they fail in the printing; or, if they get the engraving and the printing done well, they fail in securing the proper paper. Of late years there has been a great deal of care taken to get paper manufactured expressly for the notes manufactured by the government. The national bank notes are also issued by the government, so that the sources of supply for exactly that kind of paper are controlled.

"When you look at it a moment it is not nearly so wonderful that a teller should detect a bad note as that a proofreader should detect bad spelling. It is only another instance of the work of the trained eye. The expert mechanic sees at a glance things that an ordinary observer would not notice. This is particularly true of all kinds of artistic work. The artist sees the defect and can hardly describe it in words, although he may be able to correct it."

Many banks keep a supply of counterfeit money on hand for the purpose of identifying counterfeits, but a law has just

been passed prohibiting any one from having on hand more than $500 in spurious money for this purpose.

§ 401. **The Silk Threads.** The two silk threads which run lengthwise in every issue of paper money made by the government are seldom found in counterfeits. These are a little more than an inch apart and are put in the paper during its manufacture. Counterfeits cannot have the paper made in this way, as the machinery would cost so much that if they had the necessary money they would not risk it in order to make spurious money. The only way they can put these threads in a bill is by splitting it, inserting the threads, and pasting the halves together again. See note, page 220.

§ 402. **Geometrical Lathe Work.** The geometrical lathe work found on all United States issues is also difficult to imitate successfully, and the machine now in use by the government cost $85,000.00, and it is therefore practically beyond the means of most counterfeiters.

§ 403. **Branding Worthless Notes.** The law requires national banks to stamp or write the words "altered," "counterfeit" or "worthless," upon all circulating notes which come to their hands. If any genuine note is, by mistake, thus mutilated, they must pay the damages, but need not lose the amount as such paper will be redeemed at the Treasurer's office.

§ 404. **Stolen Bank Notes.** Probably the most dangerous type of counterfeit paper money is bank notes which have been stolen before they were delivered to the bank. This has occurred several times. These notes have not yet received the signatures of the president or cashier, but the thief forges these names, and, as the people are not familiar with the signatures of all bank officers, these bills are passed as easily as genuine paper. And in this connection the law contains an injustice, for should an individual present one of these bills to a bank officer who had been notified that such bills were in circulation, and he should stamp it "worthless," the individual would have to suffer the loss. This matter could be easily remedied by an

appropriation by Congress for the redemption of such stolen bank notes.

An amendment to the National Bank Act has been reported (June, 1892) to Congress by the house committee on banking, recommending that all national bank notes issued by the United States shall be redeemed, notwithstanding that they may have been stolen and put in circulation without the signatures of the bank officials, or with such signatures forged.

This amendment to the law will, if passed, protect innocent holders of such notes, as well as the banks, from loss, for as the law now stands the bank must lose the amount and the profit all goes to the Treasury of the United States.

§ 405. **Splitting a Bank Bill.** There are many ways of changing and altering bank notes so as to make them appear for more than they are, but probably the cleverest thing ever attempted in this line of fraudulent practice is that of splitting bank notes. This is a delicate operation but it has been practiced with great exactness in France and in the North and South American states for several years. American currency splitters are the most skillful and can lay open a Bank of England note as easily as a national bank bill.

These clever rascals commonly use $5 and $50 bills, which are split edgewise. Then they manipulate them in this way: The front of the $5 bill is deftly fastened to the back of the $50 bill and the back of the note of the smaller denomination to the face of the larger one. When this is accomplished the maker has two fifty dollar bills that will pass current almost anywhere. In working off these split notes the shover forces the $50 of each note on the victim, who rarely thinks it necessary to examine the other side. He scans the side exposed to him by the trickster and of course accepts it as genuine. By this device the splitter clears a profit of $45 on every two bank notes he works off.

The work of splitting is done with a machine, which is manufactured in England. It consists of a burnished solid

steel roller, two inches in diameter, hanging over a smooth plate of the same metal. The ends of the roller rest in slotted uprights, and may be raised or lowered infinitesimally by means of screws as fine as those of the finest watch. A main screw as finely threaded as the others, is turned automatically by clock work, which stands at the right end of the steel barrel.

Over the plate, and with the edge under the roller, is firmly fixed a knife. Its ends are locked in grooves in flanges on either side of the steel bed.

The knives are imported from Sheffield, England, because American makers of surgical instruments are unable to turn out blades of the requisite thinness and temper. The blade is a third of an inch wide, three inches long in the clear, and thinner than a hair's breadth. No lancet has half so keen an edge.

Before a bank bill is put into the jaws of the machine it is made limp by water and every taint of dirt is removed. Then it is dried between pads of lint, after which it is placed between deep files of the finest calendered paper and left pinned in a screw press from twenty-four to thirty-six hours. When it comes out it looks as bright, clean and fresh as a new bank note, and, what is of more importance to the operator, it is almost as stiff as card board. Then it is ready for splitting. One of its ends is inserted under the roller on the side farthest from the knife.

Then the weights of the clock are set going and the bright metal roller turns so slowly that its motion is scarcely perceptible. As the bank note is worked through its end is met by the knife edge. The knife is set so delicately that it passes exactly through the width of the bill. One-half of the bank note passes above the knife, and the other half moves under the blade. The blade is so delicately set above the plate that there is just space enough to let the half of the bill pass through.

An hour is required to run a single bank note through the splitter. After being halved the sides are given a gentle steaming to raise the fiber on the cut sides, in order that, when forced together with 2,500-pound pressure, the threads will knit into a perfect fac simile of a genuine bank note.

NOTE TO § 401.—The paper of which paper money is now (1893) made, no longer contains the two silk threads, but in their stead are red and blue silk fibers scattered thickly in the paper in such a manner that they show through both sides of the bill. These fibers are about half an inch in length and run in all directions and are considered an almost absolute safeguard against successful counterfeiting.

CHAPTER VIII.

The Receiving Teller.

§406. General view.
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408. The pass book.
409. Writing up the pass books.
410. The pass book is not negotiable.
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§416. Over and short.
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421. Checks drawn on the depositary.
422. Uncurrent bank notes.
423. Deposit made through fraud.
424. Banking hours.
425. Forced deposits.
426. Interest on deposit.

§ 406. The receiving teller is appointed and gives bonds in the same way as the paying teller. The amount of his bonds, however, is usually smaller and he receives a smaller salary than the paying teller. When the paying teller is promoted the receiving teller takes his place.

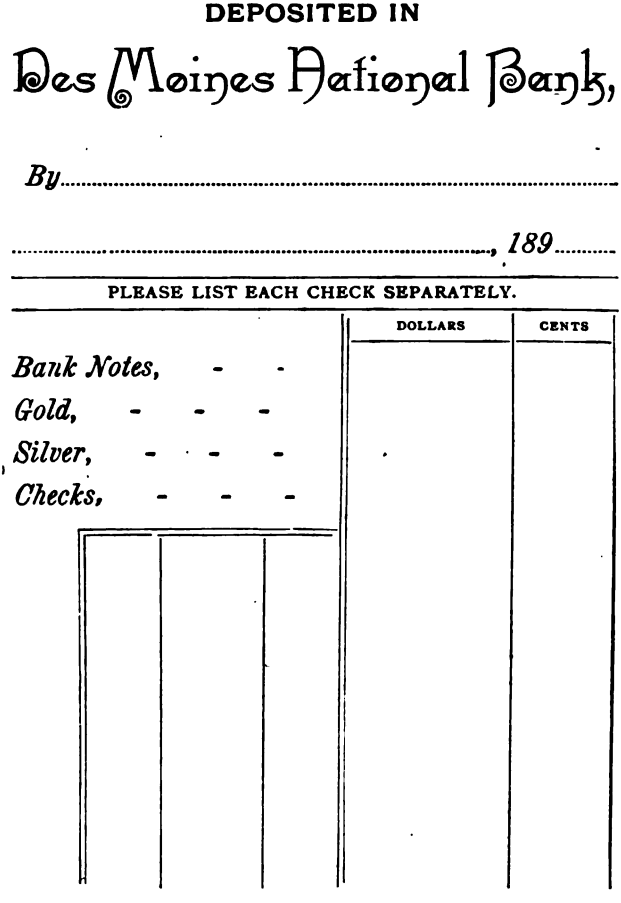
While there are no difficult calculations connected with his position, yet he ought to be a man of good ability and sound judgment. He deals largely with the general public, and has, therefore, a great deal to do with the good will of his bank.

He is usually looked to and considered as an assistant to the paying teller.

He should be well acquainted with the depositors' accounts and their average run. He ought to be constantly on the alert to obtain all the information possible regarding the movement of trade, and especially should he seek to know the methods and character of business men generally.

The receiving teller receives all the money taken in by the bank. When there is a note teller, however, he receives the deposits and the note teller all moneys paid for collections, etc. The receiving teller is called the deposit teller, or second teller; the note teller is called the third teller.

§ 407. **The Deposit Ticket.** The deposits of merchants



DEPOSITED IN

Des Moines National Bank,

By.....

....., *189*.....

PLEASE LIST EACH CHECK SEPARATELY.

	DOLLARS	CENTS
Bank Notes, - -		
Gold, - - -		
Silver, - - -		
Checks, - - -		

and dealers consist of checks and money, already described, and various documents representing money. The depositor

makes out a proper description of his deposit, called a deposit ticket, which accompanies the pass book and funds for deposit.

The form given herewith is used by some of the best banks. It contains the name of the depositor, the date, and an itemized list of the funds constituting the deposit.

If his cash does not prove at the end of the day's business he re-examines these tickets to find his error. If the cash proves he puts the tickets into a package, which he labels with the date, and then stores them for future reference.

§ 407*a*. **An Improved Form of Deposit Ticket.** The form of deposit ticket described below will commend itself:

"Since it costs about the same to print any given number of words, great care should be taken in the composition of blanks for mercantile use. If a single word of writing is saved on each blank, of which 15,000 are consumed annually in an ordinary bank, that many words are saved, and the clerk hire necessary to write them may be estimated at about $10, that is if it can be estimated at all, while the comfort and satisfaction of using a handy blank may almost be termed 'a joy forever.'

"The deposit slip would seem to offer little field for improvement, and yet the writer has for the past six years been constantly receiving sample forms from the leading stationers showing what are in actual use at present in the banks in the country, and he believes that many of them can be modified to advantage. His idea on the subject may be exemplified by the form shown below.

"The reminder with reference to indorsing may save the receiving teller an occasional trip to hunt up a careless or ignorant customer and get his signature; for no matter how careful the teller, he will sometimes take a check without indorsement, when his attention is directed to other important matters connected with the deal. The wording 'for account of,' is much better than the word 'by,' as frequently the de-

posit is made by one person and the money is to be placed to the account of another. The two blank lines below are also convenient in such cases, and also in some instances to give the address of a depositor, or write a very long name in full.

SEE THAT ALL CHECKS AND DRAFTS ARE INDORSED.

DEPOSITED WITH THE

STATE BANK OF VALPARAISO,

For Account of

.....

.....

Valparaiso, Ind., ...189..

☞ Please List each Check separately.

	DOLLARS.	CENTS.
Currency		
Gold		
Silver		
Note		
Interest		
Checks or Drafts as follows		
Less Exchange		

Net Total, $

"The request that checks be listed separately is worth all the room it takes, especially as it imposes no additional labor on the banker. He makes the request, the customer 'does the rest.'

"The item 'Note' is somewhat unusual, but it will be surprising how many times it comes handy. 'Interest' is new so far as the writer has observed, but it will save writing. It may cover accrued interest allowed for, in whole or in part, on a note purchased; interest on a note collected; interest on a deposit; or a special deposit to pay interest on a note made payable at the bank. Six lines are given for the listing of checks. One or two more may be added if needed, making the slip longer. The item 'less exchange' will explain and commend itself."[a]

§ 408. **The Pass Book.** When a depositor makes his first deposit in a bank, he is given a pass book in which the bank records all his deposits. The record includes the date, the teller's initials, and the amount of the deposit. The teller's initials is a receipt of the bank for the money. Irregularities are often occasioned by depositors forgetting their pass books, but desiring to make a deposit just the same. In this case the teller issues a duplicate ticket and hands it to the depositor.

In case of an out-of-town customer, who sends his deposits in by mail but does not often find it convenient to present his pass book, no pass book should be issued, but a proper receipt for each deposit mailed to the dealer and an account rendered to him at the end of the month.

§ 409. **Writing up the Pass Books.** The pass-books are left at the bank once a month—or should be—to be written and balanced up. This consists in entering all the checks and drafts on the bank, whether by note or otherwise, of the depositor, on the credit side of the book, and striking a balance. In entering the checks it is not necessary to give dates or numbers, only amounts, making three or four columns of figures on a page. After the checks are all entered and the book balanced, the number of checks or vouchers is stamped

[a] From the pen of J. H. Skinner, of Valparaiso, Ind. Mr. Skinner is a bright, wide-awake writer, and is always searching for new and improved methods.

or written in the book, and the vouchers are returned with the book. Depositors should leave their books at the bank a few days before the last of the month so that the teller may be able to return them on the morning of the first. In banks where the number of depositors is large, it is customary for nearly all the clerks to assist in the monthly work of writing up the pass books.

A receiving teller of a large bank informs me that in his bank they write up the checks on a separate sheet of paper, properly ruled for that purpose, and then place only the total amount of the vouchers on the credit side of the pass book. This is especially advantageous in the case of dealers who draw a great many checks, for it enables the officers to work at writing up these checks before the rush at the end of the month.

Though the clerks write up and strike the balance, the receiving teller should not pass them back to the dealer until the bookkeeper has examined them and the balances checked off on his books. Sometimes the cashier or president will check off these balances on the balance sheet or the ledger, to make sure that they are all right.

Banks often labor at some disadvantage on account of the fact that depositors seldom or never acknowledge the correctness of their pass book after it has been balanced. Almost any experienced bank official can tell of cases where depositors have discovered errors in pass books and failed to report them for weeks, perhaps months. Here is a form that one banker uses to get an expression from his dealers:

_____, 189__

J. B. Dayton, Cashier,
Highland Park National Bank,
Des Moines, Iowa.

Dear Sir,—Your statement of account with_____ vouchers to_____189__, and balance to_____189__, credit of $_____ has been received and the same is correct.

_____

The depositor will please fill out this blank and return it to the bank at once.

§ 410. **Pass Book is not Negotiable.** A bank pass book is not negotiable, and it would not be even if the by-laws declared it so. A pass book is merely an account kept between the bank and the depositor and it would not be negotiable by any agreement. The account shown by a pass book is no different than the accounts of merchants kept in the same way. These cannot pass from hand to hand "by order," though they may be assigned—so may a bank account.

Neither does the fact that an old pass book shows a balance in favor of the owner, necessarily entitle him to demand the money. The amount might have been withdrawn long before, and the pass book never left at the bank to be balanced. This suggests that a bank should keep all the old checks which it pays, so as to enable it to balance the pass book whenever presented, if that is not for fifty years.

§ 411. **The Clearing-house Exchanges.** Some banks have racks or boxes into which the second teller places the checks on other banks, received for deposit. There is a box for each bank, and the checks are thus kept separate. These checks, of course, go to the general list, and constitute the receiving teller's portion of the exchanges which go to the Clearing-house. In banks where no boxes or racks are to be had some-

times a teller will employ a separate spindle for such checks. In this way they are always assorted and need but to be placed on the general list to be ready for the Clearing-house.

§ 412. **Requiring Certification.** Most of the checks received for deposit are drawn by merchants on other banks. Some of these are certified before deposit but many are not. If a depositor is known to be all right, or the drawer is well known, the checks are taken without certification, but in other cases certification is required before the checks will be taken. Unknown persons often give checks which may come in as deposit, and these may or may not be good. The drawee bank's certification adds greatly to the check's negotiability, for the certifying bank is responsible even though the certification was made wrongly.

A teller may have reasons for requiring checks certified of which the depositor is ignorant, or perhaps cannot be informed.

In determining regarding what checks ought to be certified, a deposit teller must use great caution, good judgment, and, above all, be prompt in his decision. The interests of the bank must be protected, but at the same time dealers must not be unnecessarily offended. To retain the good will of the dealer and secure the safety of the bank at the same time, is often a difficult task. Of course, some tellers are quick to learn men's natures and make friends and know how to hold their friendship; while others are gruff and are likely to offend a customer at any time.

§ 413. **Examining the Checks.** One of the most important duties of a receiving teller, in taking deposits, is his examination of signatures, dates and indorsements. What we have said regarding these features of paying checks, in the chapter on the paying teller, will apply to the matter here.

The depositor should be required to indorse each check in blank, below all other indorsements. Sometimes checks come in so rapidly that the teller cannot take time to carefully examine the entire check, so he notices especially the deposi-

tor's indorsement, for this is the key to discovery should there be anything wrong. By this means the bank is enabled to place the error where it belongs should any be discovered in the future history of the check.

Tellers pay checks that are post-dated and those not dated at all; some lack proper intermediate indorsements; some have a discrepancy between the written amount and the marginal figures. Sometimes checks are taken which do not bear any signature; the teller sees a familiar hand writing and does not discover that the signature is lacking. Some get into the wrong package and go to the wrong bank. Some are fraudulent, and some are kiting checks. In case of these or any other of the many errors which are liable to occur, the bank makes reclamation from the proper party at once.

§ 414. **Examining the Money.** The money must also be examined that counterfeits may not be taken. By watching the publications which make a business of describing counterfeit money a teller may keep himself informed regarding "the spurious." Sometimes bank notes are stolen before they are signed. The thief forges the signature and puts the notes into circulation. These, together with all other counterfeits, so far as known, are described in Underwood's Counterfeit Reporter, published in New York city.

Regarding the provisions of the National Bank Act relating to the branding or stamping of counterfeit money, see § 97.

§ 415. **Depositor's Credit Claim.** It often happens that a depositor will claim a larger credit than is shown by the bank's books. It then becomes the duty of the second teller to make a thorough examination of all his entries and figures, with the hope of finding the mysterious discrepancy. If this does not reveal the supposed error he sends a letter to every dealer whose deposit may have been erroneously entered. As a last resort the work is again revised, and if it is not then discovered the cashier is notified.

Sometimes the bank corrects the alleged error and pockets

the loss. Not long ago a case came under my notice where a deposit teller, probably through carelessness, credited a dealer with $150 which belonged to another dealer. The bank endeavored to correct the entry, but the dealer declared that it was all right, that he made the deposit, and if the bank could not produce the deposit ticket which represented it, why that was none of his business. So he threatened to sue the bank. The bank allowed the claim and suffered the loss.

§ 416. **Over and Short.** It would be a miracle if no mistakes ever occurred in the balance of cash on hand. Sometimes, after the business of the day, the cash will be a few cents or a few dollars short; at other times there will be too much cash. Some banks have a habit of throwing these into an "over and short" box and letting the excess pay the deficits, and no account of them is incorporated into the record of the day's transactions. Other banks have an "over and short," or a "suspense" account into which these are posted. The former method ought to be condemned by all bankers—the latter method is bad enough. Nothing but precision should be tolerated in the manipulation of the accounts of a bank. "Eternal vigilance is the prime virtue of a banker." Of all business men, a banker ought to come nearest to infallibility.

A better plan regarding this "over and short" problem would be to open an account with each teller, in which the deficits would be charged and any surplus credited, under the date of the error. These accounts might be closed into loss and gain account at stated intervals.

§ 417. **Taking the Deposits.** The dealer makes out his deposit ticket by listing the amount of his currency, gold and silver separately; the checks and drafts are also listed separately and the entire deposit added. This deposit ticket and the funds to be deposited are placed in the pass book where the deposit is to be recorded. The teller takes the deposit out, turns the book face down, and proceeds to count

the money and examine the checks. As each amount is found to be correct he places a check mark after it on the ticket. He adds the amounts and, if correct, puts his initials on it and enters the amount in the pass book, and is ready for the next. At the close of the day, when a great many depositors are waiting, they observe the rule of "first come first served." If there is a rush, and a well known dealer makes a deposit containing a great many checks and drafts, the teller does not stop to add the column, but enters the amount immediately after finishing checking the items. These are then added after the bank has closed its doors, and if any error is found in the addition the depositor is notified and the correction made.

In counting bank notes the teller watches sharply for counterfeits, but no sorting is necessary, After the window closes the bills are sorted into packages of different denominations, but no notice is taken of the issuing bank. The national bank note system is so nearly perfect that the note of one bank is just as good as that of another.

§ 418. **A Deposit Defined.** A deposit is a bailment in which one person delivers something of a personal nature, without compensation, to another, to be returned when called for. The former is called the depositor and the latter the depositary. A deposit is a thing delivered for gratuitous safe-keeping, and the title remains vested in the owner. Bank deposits, however, have come to mean a certain kind of loan. It is what is known in civil law as a *mutuum*. Money deposited in the ordinary way becomes the property of the bank, and the relation of depositor and depositary becomes that of debtor and creditor.

Of course, this deposit-loan is made from time to time and is for the benefit of the depositor, and may be demanded at such time and in such amounts as he may choose. It is evidenced only by an entry in the pass book, and is to be paid on the depositor's check on presentation, without notice.

A general deposit is peculiar to the banking business, and,

as already stated, consists of the transfer of the title of the money of the depositor to the bank. The loan is made for the depositor's convenience, and in consideration of such loan the bank has the right to use the money for its own profit.

§ 419. **Special Deposits.** We deal almost exclusively with general deposits, but deem it expedient, since national banks have power to receive them,[b] that a few words be inserted regarding special deposits. The term "special deposit" includes money, securities and other valuables delivered to banks, to be specifically kept and the identical thing re-delivered; and it is not confined to securities held by banks as collaterals to loans.[c]

A deposit is general unless the depositor makes it special, or deposits expressly in some particular capacity.

There is another kind of a special deposit. This is a delivery of property, to be returned when demanded, but the keeping is to be paid for. In these cases the bank must use a greater degree of diligence and is responsible for a less degree of negligence.

§ 420. **Loss of Special Deposit.** When bonds, securities, etc., are deposited, as a special deposit, the bank is liable for gross negligence only. It is bound to exercise only slight diligence—that care which a person of less than ordinary prudence is supposed to exercise over his own goods. If a special deposit is lost or stolen the bank is not liable unless it suffered the loss to occur by its gross neglect. The bank, taking no pay, is not bound to use any special or extraordinary means to protect the property. In fact some authorities hold that in cases of this kind the bailee is only liable for a want of that care exercised by the most inattentive. Of course the degree of care depends upon the nature of the property. A bag of corn would not require so much attention as a bag of diamonds. And more care would be required in

[b] Bank *v.* Rex, 89 Penn., 308.

[c] Bank *v.* Graham, 100 U. S., 699; Paine's Banking Laws, p. 534.

a locality where robbers are numerous than where there are none.

In one case a special deposit, consisting of a bag of gold coin, was stolen by the cashier of the bank. The bank was held not liable, because the theft was a private act and not the act of the bank. It was in no way connected with his employment in the bank, for his official duty was merely to close the door of the vault when the business of the day was over. The bank would be no more answerable for this than for the cashier's villainy in any other way.

In these special deposits the articles are left at the risk of the depositor, and do not enter into the business of the bank at all. And, being a bailment merely for safe keeping for the bailor's benefit, and without compensation, the dishonest act of a clerk or teller, when in no way connected with his employment, does not render the bank responsible. Of course the bank might be responsible for gross neglect in not discharging a clerk after discovering that he was dishonest. What constitutes that degree of negligence which will render a bank liable, is a question of fact to be determined in each case.

If a cashier should sell a special deposit and use the proceeds in the business of the bank, the bank would be liable for it knew, or could have known, of such fraudulent action; but if the cashier appropriated the proceeds to his own use, unless the bank had reasonable grounds to suspect his integrity, it would not be liable.

§ 421. **Checks Drawn on the Depositories.** If a check is deposited in the drawee bank by one of its customers, it is considered the same as payment in any other form. If the drawer's account is overdrawn by such deposit, the bank cannot charge the depositor with it after it has once been credited to him. The bank has the means of knowing the condition of the drawer's account and if it pays his paper it must look to him for reclamation. The act of crediting is equiv-

alent to payment, and surely if it paid the money, it could not claim it of the payee.

When a check drawn on another bank is received from a depositor, the bank can recover of him as an indorser if the check is not paid when presented through the Clearing-house, or otherwise, to the drawee bank.

§ 422. **Uncurrent Bank Notes.** If a bank receives, on deposit, notes of a closed or insolvent bank, it cannot charge the loss, if any, to the depositor. When a bank note is given, in good faith, without objection, in payment of any obligation or on deposit, and no agreement is made regarding the matter, the person taking such note takes all responsibility of loss from the then or future insolvency of the issuing bank.

The receiving party assumes the risk of insolvency and if there is a loss he has no remedy against the person from whom the notes were received. In one or two states, however, the rule is that if the bank is insolvent at the time of payment, though both parties are ignorant of the fact, the notes may be returned and other money obtained in their stead.

§ 423. **Deposit Made through Fraud.** If a deposit is taken, under such circumstances as to constitute a fraud on the depositor, he will be permitted to recover the deposit. For instance, if a bank is insolvent and receives a deposit from a dealer who is ignorant of such insolvency, he can recover the amount.

In a like manner he can recover from the assignee, if he gives his property to an insolvent bank, with an understanding that it is to be returned if the bank is not restored to solvency.

If, however, both parties are ignorant of the bank's insolvency, the deposit cannot usually be recovered. And this is especially so when the deposit is a check on another bank and is credited to the depositor and sent on its way to the drawee bank for collection before the deposit bank fails, or knows its true condition. And even though the officers knew

that the bank was in a close place, but supposed that it would be able to maintain its credit, and there was no fraudulent intention on their part, they would be under no obligation to apprise the dealer of the condition of their affairs, and in the event of failure such dealer must be considered the same as any other general creditor of the association.

§ 424. **Banking Hours.** Banks have what they are pleased to call "banking hours," during which time they transact the business of banking with the public. If a dealer comes in the back way and makes a deposit after banking hours and it is entered the same as a deposit made during banking hours, the relation between the parties does not change, but a different treatment of such deposits would change the relation, as in banks where such deposits are entered in a separate place of deposit in a counter book, and the funds not mingled with the regular funds of the bank, the title of the deposit does not change from the depositor to the bank until the next day when the customer's account is properly credited.

In a case of this kind the bank failed before the next day and the court held that the depositor, and not the bank, was the rightful owner. If, however, the failure does not occur until the next day, after the debtor's account has been properly credited, he has no more rights than any other creditor.

§ 425. **Forced Deposits.** A bank is under no legal obligation, like a common carrier, or an inn-keeper, to receive deposits against its wish. A bank can no more be compelled to do business with any one who may present himself, than any individual can be compelled to make a contract. A bank may select its own dealers and may refuse such as it pleases.

And whenever a bank chooses, it may close the account of any dealer, and to do this it has only to tender him the amount on deposit to his credit and refuse to have any further dealings with him.

§ 426. **Interest on Deposits.** Ordinary banks of deposit do not usually pay interest on deposits. Of course, by special

agreement, even a national bank may pay interest. But in any case, if the bank agrees to pay a deposit at a specified time and fails to so pay but uses the money, it is liable for interest the same as other agents. Or if a deposit is demanded, the bank is liable for interest so long as it remains unpaid.

CHAPTER IX.

THE NOTE TELLER.

§427. General view.
428. The letters.
429. Notices.
430. Errors in his cash.
431. Stamping "Paid."
432. Protesting.
1. When necessary.
2. When not necessary.
§433. Abolition of the protest.
434. Protesting collection paper.
435. Other duties regarding protest.
436. How to keep notes.

§ 427. The note or third teller receives the money for all notes payable at the bank. In an ordinary sized bank this duty is performed by the second teller. As a usual thing the note teller does not have charge of the notes until the morning of the day of their maturity. This is especially so in large banks.

The notes are of two kinds, those left at the bank for collection for the credit of the owners, called collection notes; and those which the bank has bought—discounted—called bills discounted or bills receivable.

On the morning of the day of their maturity, the discount clerk hands the bills discounted to the note teller. These are usually in a package and the total amount of the notes stated on the strap, and when collected this total amount is credited to "Bills Discounted" in the general ledger. If there are those which are not collected, of course, the amount to be so credited is reduced just that much.

In the same way the collection clerk hands to the note teller the maturing notes which he has, with a ticket for each

owner of notes. These, when collected, are credited to the owners, and the amount becomes a general deposit.

When the notes are received, the note teller makes an entry of them in his book, and is then ready to receive payment whenever the payer appears. The notes marked payable at the bank are kept in the bank, while those payable at different points in the city are sent out with the messenger for presentation.

§ 428. **The Letters.** If there are notes to be collected at a bank in another city, the note teller must send these out in time to reach the collecting agent a few days before maturity. To do this properly he usually reaches the bank in time to make his entries of remittances for the morning mail before the bank is open to the public.

Different forms are used for remitting these notes. Here is one which is sometimes used:

FIRST NATIONAL BANK.

DES MOINES, IA., *June 13*, 1892.

C. L. Cory, Cashier,
Wheeler Nat'l Bank,
Le Mars, Iowa.

DEAR SIR,—Inclosed find for collection for our credit:

Brownell	*on Hesla*	*30 ds*	$ 560.00
Trumbauer		*60 ds*	1,346.00
Ross		*Jan. 7*	230.00
White	*Danbury*	*Jan. 10*	750.00
Gwynn	*Sioux City*	*Sight*	191.80

Yours truly,

HENRY BELL, *Cashier.*

Explained out in full these items mean notes and drafts as follows:

Brownell & Co., draft on S. O. Hesla at 30 days sight, $560.

C. M. Trumbauer, note due in 60 days from date, $1,346.

Ross Bros., note due Jan. 7, $230.

F. E. White, note payable at Danbury, Jan. 10, $750.

Draft on R. M. Gwynn, Sioux City, sight, $191.80.

§ 429. **Notices.** Formerly banks sent notices to the payer of the coming maturity of his note. This was sent a week or so before the last day of grace. In large banks this is no longer done, as a business man is supposed to know when his notes are due and make arrangements to meet them at the proper time. In small and ordinary sized banks this custom is still kept up. In many places merchants make their notes payable at any bank in town, and in such cases they must have notices or they would not know where the notes were at maturity. Again, in cases where notes do not state where they are payable and have been left at a bank for collection, notice would be necessary to warn the debtor where he may find his note at the time payment is due.

§ 430. **Errors in His Cash.** The note department requires as much vigilance as any department of a bank. Men forget where or when their notes are payable and the amount. Notices are delivered to wrong persons, and many other irregularities are sure to happen. The teller keeps all his letters, notices, memoranda, etc., until his cash is balanced at the close of the day. These may assist his memory materially should any errors occur.

§ 431. **Stamping "Paid."** When a note is paid, the teller stamps the word "Paid," and usually the name of the bank and the date, across the face of it.

"Where a bill or note is paid it should either be destroyed or some memorandum should be made upon it unequivocally indicating that it has been cancelled. * * * For unless payable at a specific time, the fact that it was over due might not be apparent from its face, and the parties to it would incur risk of liability to a bona fide purchaser without notice."[a]

[a] Daniels on Neg. Instruments, § 1235*a*.

It is the duty of banks and other payees to stamp this memorandum on paid notes and drafts, and such stamp does not affect a recovery from the indorsers. The stamp is a mere acknowledgement of the receipt of the money.

§ 432. **Protesting.** A protest is a formal declaration in writing made by a notary public, stating that the within note, or bill, has been presented for payment, or acceptance, and payment, or acceptance, refused. The object of the protest is to hold the secondary parties liable for the payment. To do this they must have the proper notice within reasonable time after dishonor. To be within a reasonable time the protest must usually be made not later than the day following the last day of grace. Usually paper for protest is handed to the notary immediately after dishonor—on the day of maturity.

1. *When Necessary.* It is positively necessary to protest all foreign bills of exchange, for non-acceptance or non-payment. There may be an exception to this rule, however, as when protest is waived by the party to be charged, or where it is impossible to find a notary public.

2. *When not Necessary.* Unless made so by statute, it is not necessary to protest an inland bill, nor a promissory note. Notice may be given to the indorsers by the holder. This is quite as effective as a regular protest, but the evidence of the facts stated may not be as readily furnished. A protest by a notary public is supposed to have a right of way in the courts, and it needs no witnesses. It is conclusive evidence; and in consideration of this fact, inland bills and promissory notes are usually protested the same as foreign bills. This is especially so with banks.

§ 433. **Abolition of the Protest.** The protest is another feature of negotiable paper that ought to be modified or entirely abolished. The practice of protesting varies greatly in the different states, and the principles are not clearly settled even throughout a single state. A protest applies strictly to

foreign bills; but an inland bill or any negotiable paper may be protested, and there is a general practice of protesting all such instruments. In fact but little difference exists in protesting them, yet, there is no special reason for protesting even a foreign bill. This usage was founded on sound reason, but the reason has long ago disappeared. The reason for a protest was to have sufficient evidence, in a trial, of presentment or demand, but the changes in business no longer require such formal evidence. A notice to all the parties interested is quite sufficient, and instead of extending the practice of protesting to all business paper, it should be entirely abolished. Thus money and trouble would be saved and another avenue be closed against those who wish to escape payment of their paper whenever any irregularity is discovered.

§ 434. **Protesting Collection Paper.** When paper is left for collection definite instructions should be had from its owner regarding the course to pursue in case of non-payment. If no such instructions are obtained the bank will send it to protest. This is done whether there are any indorsers or not. It is a common rule to protest all unpaid paper unless there are instructions to the contrary.

§ 435. **Other Duties Regarding Protest.** After the last payer is dismissed, the note teller closes his gate, erases from his cash book and tickler all the unpaid notes, which he passes to the cashier for examination before turning them over to the notary. No dishonored paper should be allowed to go to protest until it has been shown to the cashier. Before resorting to such a disagreeable last resort, the bank should be sure that it has discharged every duty which it owes to the paper. Many suits of damage and much ill feeling result from unwise protests.

§ 436. **How to Keep Notes.** Banks usually use great care in handling notes, and often have a covering, properly labeled, for each note.

The following suggestions regarding the keeping of notes are from J. H. Skinner, of Valparaiso, Indiana:

"There seem to be two systems of keeping notes in different banks. In the one the pockets of the note case are labeled with the different letters of the alphabet. This arrangement has the advantage of making it easy to find a note when wanted. The other method is to label the pockets of the note case with the months of the year, reserving one pocket for *demand* notes, and one also for *over due* notes. Here we have the notes arranged handily for notifying the payers shortly before they are due, and we can easily look ahead at any time to see what money is coming in in the near future. On the other hand, the latter arrangement is not convenient for the purpose of finding any particular note when wanted.

"To eliminate this difficulty, a pocket index book may be purchased, that is, a rather large and thick pass book indexed clear through, such as stationers usually retail at about twenty-five cents. It will be well to select one having a single red date line ruled about an inch or half-inch from the left margin of each page. Commence with the January notes; take them from the note case and index them in this book. Place the name, properly transposed, on the top line commencing at the left hand margin. In the center of the next two spaces, and at the right of the date line, write the number of the note above, and the month when due below, in the form of a common fraction. Use three lines for every name, except that regular borrowers may require more space.

ILLUSTRATION.

Allen, William E.
2106 2144
Feb. Demand.
Ashmore, John
2102 5164
Overdue. April."

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CHAPTER X.

The Discount Clerk.

§437. General view.
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443. The ticklers.
§444. The tickets.
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448. Re-discounts.

§ 437. The position of discount clerk is one requiring a man with sound judgment and quick, keen perceptive faculties, and one who can calculate with accuracy and great speed. To make a success of his work he ought to be systematic in his records, employing all short methods which will be of assistance to him.

He is usually considered to stand an equal chance with the paying teller for the position of cashier.

The position is one of great importance to the bank, and requires a man who knows a great deal about banking, and is willing to learn more.

The discount clerk has possession of the greater part of the notes belonging to the bank. He has an apartment in which these are deposited and thus kept in his immediate custody. If any officers of the bank want to examine any notes they must do so in his presence. He is held responsible for the notes, and by this method he alone is liable for any irregularities.

He is in frequent intercourse with the customers of the bank. He is interviewed by those who wish to borrow, and

has to advise applicants regarding the disposition of their offers. He can, of course, make his answers short by saying "Accepted," or "Rejected."

§ 438. **Discounts.** Regarding the nature of loans made by banks, see the chapter on cashier. We have seen that the greater part of a bank's profits come from loaning money. Loans are called discounts, because the interest is taken in advance and only the proceeds paid or credited to the borrower. This is, of course, charging interest on interest, but the law allows banks to do this, at the legal rate, without rendering themselves liable for usury.

In well managed banks the greater part of the loans are made so as to mature in sixty days. Some are made for shorter time and some for longer, but sixty days is about the average. A bank could, therefore, loan each day one-sixtieth of its loanable funds. In this way the amount maturing each day would furnish funds for other loans, and the loanable funds would thus be turned every two months, or six times a year. The greater amount of discounts consists of business paper, for the primary object of banking is the promotion of commerce. It is this paper that the board of directors is called upon to buy. A discount clerk does not pass upon any paper offered. This is the principal duty of the board, and there is where it should be passed upon. The directors should not give full authority to any officer to discount whatever paper such officer should choose to take. This throws all the responsibility on one man, and directors are chosen so as to divide the responsibility and thus insure safety to the association. Directors who are not willing to do their share of the work ought to resign, and a bank official who wants to do everything and take all the responsibility ought to embark in some other business.

§ 439. **The Offering Book.** The discount clerk neither receives nor pays out any of the bank's money. His duty consists chiefly in recording offerings and keeping the records of

all discounts and loans. He is also occupied a part of his time in interviews with customers regarding their offerings.

Many banks do not have an offering book, but the customer is given his money or credit and the record goes at once to the regular books. This may be the quickest way to dispose of the matter, but it is by no means the best way. An entry in the offering book, giving all the leading facts, would avoid any future misunderstandings or mistakes which might occur. Misunderstandings are always turning up. Two memories never agree. The officers forget. But if it is all recorded there can be no mistakes of this kind. This is especially so in banks where the board does not meet but once or twice a week, and is required to see the paper before granting the loan. In some banks the board meets daily, and in others, where the president or cashier has authority to pass on what paper he knows is all right, the customer is speedily told whether his paper will be accepted or not. In banks of this kind the offering book many be entirely discarded. In most cases, however, where the officers pass on paper, they submit it to the board at the next meeting for approval. This submission can best be made from a well kept offering book.

The offering book contains columns for the number, date of offer, offered by, maker or drawee, indorsers and collateral, payable at, amount, days to run, due date, rate, accepted, declined. and remarks. Some banks may have different forms. All offerings, whether rejected or already accepted, should be kept in this book. This enables the directors to ascertain all the essential facts which may aid them in properly conducting the business.

§ 440. **Numbering and Timing.** As soon as paper is accepted the discount clerk examines it for filing and general character. He then numbers it on the back and end with red ink, giving each note a number corresponding to the number under which it is recorded in the tickler and register. He also calculates the time and writes the due date, with the number, on the back.

Some banks do not number their notes and are careful not to mar them by marks of any kind, even so much as a pin hole, so that if, for any reason, they should wish to dispose of them they will not show that they have been in the hands of a bank. For the same reason a bank does not desire to have notes drawn payable to its order. A maker should make the note payable to his own order and indorse it to the bank, even if it goes direct from his hands to the bank.

§ 441. **Calculating Time.** Most notes are timed on their face by the maker, though the bank takes no notice of such record, but computes the time for itself. A bank must be exact in its own business, and if a maker should, intentionally or unintentionally, miscalculate the due date and the bank should abide by such calculation and not make demand of payment at the proper time, it would probably be held liable for its laches.

When a note is drawn for months it is nominally due on the day of the month corresponding to its date, counting the required number of months forward, and legally due three days afterward. For example, if a note dated May 7th is drawn for four months it is due four months after May 7th, or Sept. 7th, adding three days of grace, it is due Sept. 10th.

A quick method for timing paper drawn for months is to add the number of months to run to the number of the month of date and this sum is the number of the month of maturity. If the sum thus found is greater than twelve, subtract twelve and you will have the proper number. For example, a note for nine months is dated Aug. 11th. August is the eighth month. Add 9 and 8 and subtract 12 and we have 5. May is the fifth month and the note is due May 11th-14th.

If the time is in days the actual number of days must be counted.

Thus a note dated Jan. 31st, payable in one month, is legally due Mar. 3d; but a note dated Jan. 31st, payable in 30 days, is legally due Mar. 5th, or in leap years Mar. 4th.

§ 442. **Discount Book.** Next the notes are entered in the discount book or register. This is the most important book kept by the discount clerk. In it is entered a full record of all discount transactions. It is ruled with columns for maker's name, indorsers and collateral, payable at, date, time to run, discount date, rate, discount, exchange, amount, proceeds, etc. There are many forms of this book, each bank adopting a form suited to its peculiar mode of transacting business.

§ 443. **The Ticklers.** As soon as a note becomes the property of the bank and is recorded in the discount book just described, it is entered in the tickler. A tickler is so named from the fact that it assists or tickles the memory. The book is ruled with sections for each day in the year, and each note is entered under the date of its maturity. In large banks a page is left for each day. This book is ruled so as to give a general description of the paper, including the rate and date of discount. The total footings of the tickler will show the amount of "bills discounted," and the proof of these total amounts is taken, at least as often as once a month, and proved with the general ledger.

§ 444. **The Tickets.** System is good everywhere, and especially so in a bank. When paper is figured and the amount of proceeds ascertained, a ticket or memorandum, is made out so as to show the gross and net amount of the paper, the dates, time to run, etc. This, handed to the receiving teller when the proceeds are to be credited to a dealer, or to the paying teller when to be paid, will thoroughly explain the matter. They are, however, of greater convenience to the bookkeeper than any one else. They give him a clear insight into the whole transaction.

As already stated, the discount clerk does not pay out any of the bank's money; but after he has properly figured and recorded the paper, he authorizes the paying teller to pay the net proceeds out. He should do this by a properly filled out pay-loan ticket. Sometimes, when business is rushing and

there are many customers waiting, the discount clerk is tempted to give the paying teller verbal orders regarding payments, expecting to fill out the proper tickets after the rush. This is an exceedingly poor method. A paying teller ought not to make any payments without a proper voucher. To do otherwise is to invite error and confusion. In such cases the money goes out voucherless. It may be that the clerk will remember to fill out the ticket and it may be that he will not; and at night the paying teller is short in his cash. Now comes a hunt which, of course, may be corrected by checking up the work of the discount clerk, but all this trouble should be avoided.

The following form of pay-loan ticket is much used for the purpose described:

June 20, 1892.

Pay——— *S. A. JENKINS*,——— $*1,578.00*

Debit Loan.

R. M. GWYNN, Discount Clerk.

Loans made by a bank to a dealer, are generally retained and credited to the account of the borrower. The customer is then at liberty to draw against the amount the same as an ordinary deposit. In cases of this kind the discount clerk passes to the receiving teller a credit-loan ticket.

June 20, 1892.

Credit ——— *CHAS. DUHIGG*——— $*7,000*

Debit Loan,

R. M. GWYNN, Discount Clerk.

§ 445. **Collateral Securities.** We have already noted that banks do not loan money on real estate security. A savings institution may, with impunity, make such perpetual and uncollectible loans, but other banks, from the nature of their deposits, must have easily collected and short time loans. The general banking associations loan money on personal and collateral security. The bonds, stock and other classes of paper, held by banks as collateral security, are usually put in the hands of the cashier, or the discount clerk, and kept in the safest place in the bank. Great care should be taken in handling them that they be not torn or marred. Many banks cover and package them, and then store them in the vault in small tin boxes, or apartment drawers made for the purpose. They should be so systematically arranged that they may be readily referred to when an occasion demands that they be examined. "The condition of the collaterals in these points of arrangement and tidiness is a gauge of the character of the general management of the officer in other points of his administration."

§ 446. **Changing Collaterals.** During the course of a loan many changes in the collaterals, held as security, are likely to be made. But no officer should give up to a dealer, either in the way of exchange or at the time of payment, any collaterals held by the bank without taking a receipt for the same. If a change is made a form like the following would enable the teller to keep his part of the records intact, and avoid many misunderstandings, litigations, and losses:

Memorandum.

July 5, 1892.

Received *150 Shares C. B. & Q. R.R. Co.*

Substitute, *150 Shares C. R.-I. & P. R.R. Co.*

E. W. Ross & Co.

When coupons, on coupon bonds, held as security, mature and are delivered to the owner, a proper receipt should always be taken.

In taking on time paper as security some good method should be adopted to avoid these becoming due without the bank's knowledge, and no demand being made, thus releasing the indorser. A good plan to adopt regarding this matter is to have a "bills receivable dummy," which may be placed in the collection or discount files.

In making loans on collaterals a bank manager is very careful to examine thoroughly every item of security taken. But in cases where notes are taken as security there is likely to be a great deal of changing. The owner sells a part of the original collateral, in the regular course of business, and withdraws the marketed portion and substitutes new collateral. These substitutes are, too often, taken in by the discount clerk without being examined by the manager, and thus an easy-going method is fallen into regarding the matter. In many cases at the final closing up of the loan the character of the collateral has entirely changed. Any difficulties regarding such matters may be avoided by a systematic record, in a book arranged for the purpose, of all such changes of securities. The cashier, president and directors may then examine all these changes, and approve or disapprove them.

§ 447. **Responsibility for Loss of Collaterals.** I cannot close the subject of collaterals without mentioning the following incident, cited by an eminent authority, to illustrate the question of responsibility for collaterals: The borrower deposited $75,000 worth of railroad bonds as security for $50,000. As the banker took the collaterals, he remarked: "I suppose you fully understand that we are not responsible for the care and safety of these bonds beyond the exercise of due diligence and carefulness as custodian—the exercise of the same care and diligence as we bestow upon our own securities and cash? These bonds are your own property, left with us for

your own convenience. If, after taking them and looking after them, they are burglarized or destroyed the loss is yours and not ours, for so the courts have many times ruled, so says 'Jones on Collateral,' 'Morse on Banking,' etc., and so rules custom, equity, common law and common sense."

To this strong statement of the lender's side of the case the borrower replied: "You have my property as a pledge for your money. I shall not pay your money until you return me my bonds and I should like to see you attempt to force me to do so. If you take good care of the bonds you will not lose them; and, if you do lose them, I shall hold you responsible—shall take the ground that you have been careless, your employees dishonest, your vaults insecure, or something of that sort, and in that event I shall not pay your note, Jones or no Jones, law or no law, to the contrary notwithstanding."

This is about all that can be said about the matter. This is where the matter rests.

§448. **Re-discounts.** It sometimes happens that a bank discounts more paper than it can carry and properly meet the demands of its dealers for funds. In such cases, in order to get possession of more funds it re-discounts a portion of its paper with other banks. In other words, the loans which it has made are transferred to another institution. Any large amount of re-discounts is usually considered an indication of poor management and lack of judgment in making loans.

CHAPTER XI.

THE COLLECTION CLERK.

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464. Collections for strangers, or "tramp" collections.
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468. Rates of collection.

§ 449. As his title suggests, the collection clerk takes charge of all the paper of the bank left by dealers and others for collection. Great numbers of notes are given for purchases and debts due, and a great many of these find their way into banks for collection. It is well understood that a bank is able to collect a note or draft which the individual owner could not collect. Business men are usually very careful not to incur the ill-will or mistrust of a banker, though they might not care what other business men think of them.

Of course, many of the notes that come into the hands of dealers of the bank are offered for discount, and that part of the work has been explained; but others are placed in the bank for collection and their future history will be traced in this chapter.

§ 450. **Leaving Paper for Collection.** The position of collection clerk is one in which a thorough knowledge of nego-

tiable paper is indispensable. Such clerk ought, likewise, to be well informed regarding banking generally. In order for him to do this it will be necessary for him to keep up a regular line of study and reading. He ought to read regularly, at least, one good banking journal, such as Rhodes' Journal of Banking, The Bankers' Magazine,[a] or some such periodical. A man, in any line of work, who already knows so much that he need study no more, is a failure, and one who thinks there is no more to learn is ignorant indeed.

Many of the collections come through depositors of the bank, and these should be accompanied by some voucher or memorandum. The method employed by the best class of business men is that of always sending their collections to the bank in a formally written letter. They should retain a copy of such letter and demand an acknowledgment of it from the bank. Many banks make a record of all paper left for collection, in the back of the dealer's pass book. Men who have a great many collections have a book especially for such records. If these records or memoranda are not had at the time of leaving the paper for collection and the paper is lost or mislaid, trouble is sure to result. The bank will maintain that it never had the paper; the dealer that he left it with the bank; what if it never turns up to settle the controversy?

§ 451. **Foreign Paper.** In most banks the collection clerk attends, also, to the foreign collections. These are such as are payable at other towns and other banks, and must be sent out for collection. He sends them to the collecting bank generally about two weeks before they are due. This will give the collecting bank time to make all its necessary entries, serve its notices, etc., before the paper matures.

In large banks a separate register—a foreign collection register—is kept for notes payable at other banks. In some banks these are all entered in the regular collection register, and a column is provided for a record of the date of transmission, date of payment or return, where sent, etc.

[a] Both published at New York city.

Most banks make their collections direct, though some make their collections for a certain district through one bank which has an established correspondence throughout such territory. But by the direct method the paper is presented more promptly, the returns are received in shorter time, and thus a stimulus is given to the country business.

§ 452. **Indorsement for Collection.** When paper is sent for collection to another bank it is indorsed: "Pay to the order of_____ Bank, for collection and credit of_____ Bank, C. E. Carlton, cashier." Another and briefer form much used is, "Pay any National Bank, or order, for collection for account of," etc. And still another, which has just been adopted by some banks, is, "Pay for account of," etc.

All these forms are considered by the courts[b] as qualified or restrictive indorsements. It is viewed as nothing more nor less than a warrant of attorney authorizing the indorsee to collect the amount due on the draft for the indorser. It conveys no title to the paper, but is notice to all persons subsequently dealing with the paper that the indorser has not parted with the title or intended to transfer the ownership of the proceeds to another. And an unbroken succession of such indorsements would indicate that each indorser was acting for the next preceding indorser, until the first indorser is reached, who was himself an agent of the owner. It has long been held by the courts that such indorsements are restrictive, protecting the rights of the owner.[c]

When collections are to be made at places where the bank has no regular dealer, they are indorsed, "for collection and remittance." When the paper is paid the collecting bank remits at once by a check drawn usually on some place where a surplus of exchange is created, as the exchange can then be worked off at a profit. The bank owning the paper usually instructs regarding the place on which the remittance shall be drawn.

[b] Central R. R. Co. *v.* Bank, 73 Ga., 383.

[c] Bankers' Magazine, April, 1892, p. 807.

A properly written letter accompanies all paper sent for collection. This letter states, among other things, whether the paper is to be protested or not, in case of dishonor.

§ 453. **The Collection Register.** The collection register is the principal book in this department. All collections are entered in this book, from the face of the paper, as soon as it is received. The columns are arranged so as to exhibit the various parties to the paper, the dates, time, amount, exchange, etc.

§ 454. **The Tickler.** A tickler, as already explained in the chapter on discount clerk, is kept to exhibit the maturity of collections. In fact, some banks do not keep any other record than the tickler, *i. e.*, the collection tickler is used for both register and tickler. The amount of space to be left in the tickler for each day depends very largely on the amount of collection business done by the bank. Large banks often have from 800 to 1,000 collections maturing in one day. Some may have but a few.

When the collections mature, and are paid, the careful collection clerk will see that the proper credit is given on the regular books of the bank. He then cancels the entry on the collection register and the tickler.

§ 455. **Notices.** The collection clerk usually has several printed forms of notices for his use in reminding payers of their maturing paper. These are neatly printed on a slip of paper to fit the envelope. The wording is a matter which is easily arranged:

DES MOINES, IOWA, *Jan. 23*, 1892.

You are requested to pay your note for $200.00, due this day at Des Moines National Bank. J. E. ADAMS,
Cashier.

For accepting, paying acceptance, etc., the words of the notice would, of course, be slightly changed. In some banks such notices specify to which teller to apply.

After the notice is properly filled in, it is ready to be served; this should be done at the proper time and place. Though banks are not required, by law, to notify the payer of his maturing paper, yet this is often done. When a party makes a written promise to pay, he should make it payable at some special place, and at maturity have the money there to pay it, notice or no notice. But where custom is universal among banks to give these notices the makers have a right to expect them, and if a bank fails to issue them it is guilty of negligence which may result in trouble, or perhaps loss.

A method which will commend itself to banks having a large number of collections, is to make out the notices, direct from the face of the notes, at the time the paper is received. These notices are then placed on file in the order of their maturity, and sent out when maturity draws near. It is easy to see that notices can be more accurately made out from the face of the paper, than from the books, and they may serve to correct errors in the records.

§ 456. **"With Exchange."** Notes are sometimes drawn "payable at ———— Bank with exchange," or "in New York exchange." It is well understood that negotiable paper must not only be payable in an amount certain and payable absolutely, but payable in money—there is no contingency. And many regard the phrases just referred to as rendering the paper non-negotiable. Payable "with exchange on New York," means that the promisor agrees to pay the amount of the note plus the cost necessary to buy a draft on a New York bank for the amount. But when a note says "payable in New York exchange," the payer would have a right to offer in payment any draft on New York which he might choose to tender. However, this latter phrase is understood to mean "with exchange." To say the least, they are both out of place in a note and ought to be discarded. Banks ought to refuse to have anything to do with paper so drawn, and perhaps the objectionable habit would be soon remedied.

§ 457. **Days of Grace.** Days of grace are a relic of the days of slow transportation, and poor facilities for the transmission of valuables. They were days of favor, allowed the payer of a note or draft, or more especially to the drawee of a foreign bill, to enable him to provide cash, and at the time this custom arose, these collections were not made through banks, but had often to be sought from individuals. By custom it has gradually come about that days of grace are legally a part of the time the evidence of debt has to run.

At one time the law in France allowed ten of these grace or favor days. Some states and countries now allow four, though at most places only three are allowed.

In some places days of grace have been abolished, and bankers and business men have, during the last year, started quite a crusade against them, and it is only a question of a short time until they will be abolished throughout the entire American states. There is no longer any reason for allowing them. There is no possible objection to their abolition, and there is no reason why they should not have been abolished fifty or a hundred years ago. It would be just as easy for the public to accustom itself to paying notes on the last day mentioned in the note as three days later. In other words, if a man wishes thirty-three days for his note, let him make it for thirty-three days.

But days of grace are allowed and must be used until a change is made by statutory enactment. Interest is computed on the days of grace the same as on the days for which the note is made. It is well known that the holder of negotiable paper is not obliged, nor can he be compelled, to receive payment before maturity—before the last day of grace. And he has a right to interest for the days of grace and any unexpired time, should he consent to accept payment before the last day of grace.

§ 458. **The C. O. D. Draft.** When a consignment of goods is sent C. O. D. by freight, the agents are instructed not

to deliver the goods until the bill of lading is properly surrendered by the consignee. The consignor draws a draft on the consignee for the value of the goods, attaches it to the bill of lading and sends it for collection to some bank at the place of destination.

These are sometimes called documentary bills. Great care must be exercised in handling such papers. If instructions are given to surrender the bill of lading only on payment of draft, care should be exercised that the proper steps are taken to get such payment. The bank is, for the time being, custodian of the merchandise; and, if this is of a perishable nature, neglect on the part of the bank in demanding payment may cause it to suffer the loss, should any occur.

If, however, the paper is drawn on time, its acceptance entitles the drawee to the bill of lading, and, therefore, the possession of the goods. This rule is not universal, especially among country bankers. When it is desired that the goods be held after acceptance, special instructions to that effect should always accompany the draft and bill of lading. Many banks have taken the stand that they must have specific instructions, in all cases, and when this is not at first sent, the mail or telegraph is used to obtain it, and, as the law allows twenty-four hours for the acceptance of drafts, such instructions can be obtained from any part of the United States. This method is highly indorsed by eminent bankers, as the only really safe course of action in regard to such paper.

§ 459. **Taking Checks in Payment of Collections.** A bank goes to all the trouble of taking on a lot of bonds, or other collateral, as security for a loan, and then gives up everything on an individual uncertified check, drawn on another bank.

Such a mode of payment is unsafe and unbusiness-like. Checks given in such payment by men who may have no intention of fraud, have often proven worthless. The deposit against which the check is drawn may be made up of checks

of persons who have failed. A rule adopted by the best banks is not to accept uncertified checks, drawn on other banks, in payment of notes, drafts, etc.

This is by far the best plan for all concerned. If a teller or clerk will make it a rule to take such checks only when properly certified, he will secure the safety for his bank which is necessary to successful banking. This way, of course, offends some customers, but not the better class of business men. To be sure the intervention of a little discretion in making exceptions to this rule will be of service. But the exceptions should be left for the manager, whose superior judgment and experience enables him to take the entire risk as a matter of wisdom and policy, and thus relieve the subordinate officers of responsibility. This rule is a necessity,—so are the exceptions; and where the managing officer decides the exceptions, the matter of taking checks for collections becomes one of comparative safety.

§ 460. **Collections Payable at a Bank.** The maker often makes his note payable at a particular bank, though this does not necessarily mean that he intends to pay it there. He simply gives an address where the note may be presented for payment, providing it is not otherwise taken care of; and he is assured that should he neglect it, the note will be presented there for payment before it can be considered dishonored.

On the other hand, we have already seen that banks may take the dealer's deposits to pay his discounted note, if at maturity it remains unpaid. A bank has an indisputable right to do this, as it would, otherwise, be in danger of losing the indorsers through its neglect to secure payment. But with regard to paper left with or sent to a bank for collection a different rule prevails in this country, though in England banks charge up collections the same as discounts, and the custom is followed in some localities in the United States. For instance, in New York the English idea of treating such notes the same as checks is followed, though the courts of this country have rendered several decisions to the contrary.

The more prevalent idea among American bankers is, that when a bank pays collections made payable at its counter, it performs a gratuitous service and assumes an unwarrantable risk. A promisor may wish, for some good reason, to dishonor his maturing paper, and when a bank pays paper without specific instructions regarding the paper, it runs the risk of paying forged or otherwise fraudulent paper against which the payer may have a proper defense.

The method adopted among some bankers in the east is to be highly commended to bankers generally, as being not only secure and justifiable, but producing the greatest satisfaction to those interested. It is to require of persons who make their paper payable at the bank to furnish the bank with a list of maturing paper, giving dates, amounts, and explicit instructions regarding payment, and whether the paper is to be paid out of the promisor's regular balances.

§ 461. **Charging up through the Clearings.** Notes held by a bank, and payable at another bank in the same city, are presented by a messenger for payment on the day of maturity. In Clearing-house cities there is quite a general custom of charging such paper up through the clearings on the day of maturity to the banks where they are payable. If, however, a bank happens to know that the paper will not be paid at the bank where it is made payable—that the payer has not provided the means of discharging the paper, or if he intends to call at the bank holding the paper and make payment, it would not thus charge the paper up.

Another point to be noticed in this connection is that the paper is not to be considered paid when it is charged up through the clearings. And the notes may be returned within a reasonable time, though the time for returning checks might be much shorter. Notes are not considered the same as checks, and what would be a reasonable time for returning a note might be an unreasonable time for returning a check.

§ 462. **Collection of Checks.** Every bank of deposit re-

ceives daily a large number of checks drawn on other banks. The duties of a bank become somewhat complicated when such is the nature of the collections to be made. Credit is at once given to the depositor on his pass book, but should the bank fail to make the collection the credit may subsequently be cancelled.

§ 463. **Crossing Checks.** In England and Canada there is a habit of "crossing" checks, which makes them payable only through a bank. I am indebted to Mr. C. D. Freeman, Bank of Nova Scotia, St. John, N. B., for the following English act and comment on "crossing" checks: "'When a cheque bears across the face an addition of the words, 'and Company,' or any abbreviation thereof between two parallel transverse lines, or of two parallel transverse lines simply, with or without the words, 'not negotiable,' that addition shall be deemed a crossing generally. When a cheque bears across its face an addition of the name of a banker, either with or without the words, 'not negotiable,' that addition shall be deemed a crossing specially and to be crossed to that bank. When a cheque is crossed specially, the banker to whom it is crossed specially may again cross it specially to another banker as his agent for collection. If a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a bank; if crossed specially then to the banker specially named or his agent. A banker paying a crossed cheque otherwise than authorized by this act, shall be liable to the true owner for any loss he may sustain through his action.'

"'Under this act any indorser or holder may cross a cheque, and if already crossed generally, may cross it specially and it would operate the same as if crossed by the drawer.'

"The Canadian act passed in 1891 provides that a crossed cheque may be opened by the drawer writing between the transverse lines, 'pay cash,' and initialing the same. The

result of this act in addition to preventing forgery, discourages the paying of cash across the counter on crossed cheques and encourages persons to keep a bank account, depositing all cheques to their credit."

§ 464. **Collections for Strangers.** Many banks receive requests, almost daily, for collections from entire strangers. These are usually for small amounts and come mostly from towns and cities where there are home banks through which they could be collected in the usual way. These "stray" or "tramp" collections consist of checks, drafts and notes, and generally the owner asks for an immediate remittance. The bank has never corresponded with, and knows absolutely nothing of the owner's character or responsibility. And to say the least, the bank does a dangerous business whenever it has anything to do with such paper. If a remittance is made it is usually in checks or drafts on some central bank, and these for small amounts, falling into the hands of strangers, are attended with great risk. This kind of business is sometimes done to get first-class checks that the amounts may be raised to a larger sum.

There is another danger in handling these "tramp" collections that may be mentioned in this connection. It is the risk of handling lost or stolen paper. A bank may collect and remit for a draft or a check to a stranger, and afterward, when the paper gets around to the drawer, be advised that the paper had been lost or stolen and one of the indorsements forged, and that the bank must make good the amount. If the sender is the forger the collecting bank usually has no one to look to for a return of its remittance; and if the sender be innocent, having obtained the paper legally, he is not always able or willing to return the amount to the bank.

Many banks refuse to handle "tramp" collections, and this is the only safe method for a bank to adopt. The paper should be returned to the sender.

§ 465. **Facilities in Collections.** The establishment of

the national banking system, and the increasing facilities for travel and correspondence, has added greatly to the ease of making collections. And with the greater facilities for doing the business has come an enormous increase in the number and variety of paper which is handled and collected through banks. The country merchant is not in style now unless he sends his individual check drawn on his village bank to pay his New York or Chicago bills. The "national" part of the drawee bank's title has produced that degree of confidence in even the smaller national banks, that such checks are easily collected.

Another thing that has helped to produce greater facility in the collection department of the modern bank is the increased number of banks and the fact that they are established in almost every small town. And in towns too small for a bank or a lawyer, the express companies are there and these render great service to banks in the way of collections.

In fact some banks do their collection business with the express companies, even in towns where there are banks, claiming that the express is often the quickest and cheapest. One thing is sure, the express system is managed with great skill and a promptness and safety that calls for admiration, and makes it a desirable collecting agency.

Short methods and improved records and forms have very materially lessened the work in attending to the details of the collection department. The pen no longer writes out all the forms, and indorsements. This work is accomplished by means of the rubber stamp, and is done by the messenger and the junior clerk, instead of the officers of the correspondence and collection departments of the bank. Many of these indorsement stamps contain the name of the cashier, so that nothing is to be written with the pen.

§ 466. **The Bank's Responsibility.** A bank is always responsible for paper left with it for collection. And if the paper is payable at another bank and is sent there for collection, the sending bank is responsible for its collecting agent's acts. If a collecting bank fails with the proceeds of collec-

tions still in its possession, awaiting remittance, the amount is not to be considered as fiduciary and is not therefore returnable to the owner. The courts hold that these special balances are the property of the suspended bank the same as other balances.

Banks, like railroads and many other corporations and firms, try to limit their liabilities by giving notice that they will not be responsible for this, that and the other for which the law says they are responsible. These claims amount to very little, for a man cannot shield himself from responsibility by mere publication. The matter must be controlled according to law. In the matter of collections which we have under consideration the courts hold that the first collecting bank is responsible directly to the owner of the paper. Even should the paper be lost or stolen during transmission from one bank to another the first collecting bank would be liable to the owner.

§ 467. **Collection Letters.** After the paper, to be sent away for collection, has been properly indorsed, a letter to accompany it is written and sent by mail to the collecting bank. These letters transmitting collections are generally to the point. The following is a form much used:

LEE BANKING ASSOCIATION.

DES MOINES, IA., *July 9*, 1892.

C. L. Cory, Esq., Cashier,

Denver, Colo.

DEAR SIR,—We inclose for collection and remittance,

Wells & Andrews.....Aug. 30.....$718 and exchange.

L. J. Auston on Cozier & Co., sight....$1900.

Yours truly,

C. A. Duryea, Cashier.

These letters may, of course, vary in size and form, but this is the usual style. All collection letters and all other let-

ters sent out by a bank, or any business house, should be copied before going to the mails.

§ 468. **Rates of Collection.** The matter of compensation for collections is becoming a serious question with the better class of banks. With the establishment of so many banks competition has become so great in some localities that banks are offering to make collections for their regular customers without charge. But why banks, any more than any one else, should do business for nothing does not appear.

The Arkansas Bankers' Convention, held at Little Rock, in May, 1892, adopted a set of resolutions that is intended to remedy this evil. Here it is:

"*Resolved*, That a uniform rate of exchange charges between Little Rock banks and other banks in this state shall be as follows:

"On all items originating in Little Rock, $1.50 per thousand, and no item less than fifteen cents; on all foreign items, $2 per thousand, and no item less than fifteen cents; on all depositors' checks or drafts, individual or otherwise, drawn on banks in this state, $2.50 per thousand, and no item less than twenty cents, and on all other items from whatever source, one quarter of one per cent., no item less than fifteen cents. That in listing items for charges, the aggregate amount of checks contained in each letter of transmittal on the same bank to be taken in the aggregate, and not on each item separately.

"*Resolved*, That it is the sense of this convention that members hereof should send their collections and business to such banks only as are members of this association.

"*Resolved*, That we deprecate the habit of banks in sending their collections by such circuitous routes to reach their destination, and earnestly request that items be sent direct to the place of payment."

The committee further reported as follows:

"Your committee respectfully calls the attention of the assembled bankers to the growing practice of bank depositors in sending their checks on their local banks to pay their bills

in markets where they purchase goods, thus depriving the bank of its legitimate exchange and reasonable profit, as being a practice that is dangerous and unbusiness-like, contrary to the true principles and theories of banking, and that we, bankers of Arkansas, in convention assembled, do hereby deprecate this vicious practice, and call upon each member thereof to use every reasonable and honorable effort to cause a discontinuance of the same."

CHAPTER XII.

THE MESSENGER AND THE PORTER.

§469. The messenger.
470. The messenger's duties.
471. Presenting paper for acceptance.
§472. Small drafts.
473. "Where is that messenger?"
474. The porter.

§ 469. **The Messenger.** Nearly all banks, whether large or small, and whether they have to double up in other departments or not, have a messenger or runner. Many of the larger banks have as many as ten or a dozen messengers.

To be successful in his position a messenger should be alert, quick, accurate and honest. The position is usually considered as being the preparation for the banker's profession, and many bank clerks, cashiers and bank presidents have begun as runners. The runners in most banks are bright young men who are seeking promotion to higher positions and are willing to start at the beginning and employ their talents and abilities to secure the coveted promotion. This can be gained only through the exercise of care and accuracy in their work, and combining promptness, earnestness and courtesy in discharging the various duties. If the messenger does this he is sure of promotion, otherwise he will always remain in the first position of the bank.

§ 470. **The Messenger's Duties.** Presenting drafts, delivering notices, collecting paper of various kinds and doing the post-office business of the bank, are the usual duties which fall to the lot of the ordinary bank messenger. He takes notes and drafts around the city and collects them. The in-

structions are very simple and are easily followed. In presenting drafts for payment or acceptance, it is very desirable that the drawee be found personally and that the paper be presented to the very person on whom it is drawn. In case the drawee refuses to pay or accept, it is a good plan to have him note down the reasons which lead him to dishonor the paper. Some sort of an answer in the drawee's hand writing will be self-explanatory and often prevent misunderstandings, and misrepresentations. Such answers are likewise very valuable and convenient for return to depositors and others who have sent paper for collection.

§ 471. **Presenting Paper for Acceptance.** It has become customary, and is sanctioned by statutory enactment of most of the states, to allow the drawee twenty-four hours in which to examine his accounts and decide whether he will accept the paper presented for that purpose. If the draft is drawn on time payable from sight, and is accepted after the expiration of the twenty-four hours, the acceptance is dated on the day it was first seen. If paper is drawn payable on demand or presentation, a settlement must be made before the close of banking hours on the day of presentation.

If the drawee is absent the presentation of the draft at his place of business and the leaving of the draft or notice of it, is, of course, all that is usually required; but a faithful messenger knows that much faultfinding, and often losses, will be averted if he can see the drawee in person and get a direct answer from him, and this should be done where at all possible.

When, by courtesy, a draft and notice are left with a drawee, he should not fail to make the proper return to the bank within the allotted time. If he fails to do this the messenger will act wisely if he leaves no more drafts with such person.

§ 472. **Small Drafts.** The great key of success in business life is the proper regard for the details—the little things. And a bank's messenger should give as much consideration,

and use as much care, in handling drafts of small amounts as he would were they drawn for large amounts. He ought to be as particular and as courteous with the smallest customer whose business may seem insignificant, as he is to the heaviest customers. Patten cites a case which illustrates how neglect of a small draft caused the drawee a considerable loss. The draft was for $25 and the messenger did not make any reasonable search for the drawee, but protested it at the close of banking hours. Not long afterward the drawee, a man of large interests, so it turned out, called at the bank for some explanation of the protest. He said he knew nothing of the demand on him until he heard of the protest, and that the messenger could not have searched for him properly, or made any due presentation. He also advised the bank that the messenger's negligence had cost him several hundred dollars, the draft being a bill for a portion of taxes on western lands, the non-payment of which had led to their sale for taxes and the loss to him as specified.

Of course business men ought to be on hand during legitimate business hours to attend to the paper which they have been advised is to be presented to them. This does not, however, relieve the messenger from a faithful discharge of his duty. One man is not excused from the proper discharge of his duty simply because another happens to be negligent.

§ 473. **"Where is That Messenger?"** This is a standing question with American bankers. As a rule, messengers leave no record of their proposed route, and nothing is known of their movements until they return.

In England a messenger is called an "out teller," and while his duties are about the same as our own messenger, he employs a somewhat different method. Before he starts out on his "walk" he goes to the "walk book" and makes a record of his proposed route, of the collecting, notifying and presenting he is to do, and thus enables the bank to determine where he may be found at any time.

§ 474. **The Porter.** The porter is the bank's janitor. He appears when the watchman leaves in the morning, sweeps out and opens up the bank at the proper time, runs errands, attends to the bank's expressage, and makes himself generally useful. He helps the clerks and tellers get the books and cash out of the vault, and helps put them back at night. After the clerks are gone he locks up and remains until the watchman appears. The bank is never left alone. After the clerks go, the porter or watchman is always present.

CHAPTER XIII.

The Bookkeeper.

§475. General view.
476. Ready to make a statement.
477. The bookkeeper and his assistants.
478. Eternal vigilance.
§479. Mistakes in bank records.
480. Forms of books.
480*a*. Books used.
481. Care of paid and cancelled checks.

§ 475. We explain the position of bookkeeper last of all the clerks, not because he is least important, but because the other clerks must do their work before the bookkeeper can do his.

In this department we find new and constantly changing methods. A bank bookkeeper who never has any new ideas and who does not make any progress in the manipulàtion of the accounts of the bank, must be a failure indeed. The system of accounts used will, of course, vary with the location and size of the bank. A country bank, in which one man acts as cashier, paying and receiving tellers, a dozen clerks, bookkeeper and janitor, would not, and could not, use the same system of books as a bank employing a large force of tellers, clerks and assistants. A bookkeeper should have sufficient knowledge of his subject, and enough originality and independent thought to vary the system of accounts to fit his particular bank.

As already stated the general bookkeeper stands an equal chance with the paying teller in the line of regular promotion. The bookkeeper is expected to furnish most of the information regarding the bank's condition. The information fur-

nished by him governs, to a great extent, the acts of the tellers and manager of the association. A bank bookkeeper should be wide awake, keen, quick, but above everything he should be accurate. Nothing short of mathematical accuracy—almost clock-work itself—will accomplish the desired result in the manipulation of the books of a bank.

§ 476. **Ready to Make a Statement.** It makes no difference what system of accounts is used, the books should be kept each day upon the presumption that the bank is to pass into the hands of a receiver before business opens the next day, and that the directors are to require a complete financial statement of the bank's affairs within a few hours of the failure. If no crookedness has been practiced, there is no tenable reason why a complete and comprehensive statement should not be presented within a few hours at any time. It is at times when a statement is required, and when an association fails, that accuracy, method and promptness is appreciated. When it takes days, and, as it frequently happens, even weeks, to make a statement of the affairs of a failed bank, it is a natural inference that there is something radically wrong in the system of accounts in use, or in the ability or honesty of the bookkeeper.

If the system of accounts is so imperfect as to cause such unreasonable delay it should be discarded, and a better method introduced; if the fault lies in the incompetency or dishonesty of the accountant, he should be discharged.

Even in cases of defalcations and general crookedness, there is no reason why a statement should not be obtained within twenty-four hours, provided a proper system of bookkeeping is in use. Simplicity in method and sufficient clerical force is necessary to obviate the difficulties described.

§ 477. **The Bookkeeper and his Assistants.** In the large banks the bookkeeper has many assistants. It is poor economy for a bank to require one clerk to do the work of two; and much worse economy to expect one bookkeeper to do the work of

two. It is as bad, however, to have too many as too few. The number to be employed depends a great deal on the efficiency and qualification of each. Before a bank employs or promotes a clerk or bookkeeper, it should satisfy itself that he is peculiarly qualified for the work he is to perform. Then the force of clerks should be large enough to keep the work up without neglecting any part. A bookkeeper cannot afford to take chances in doing his duty when he knows that important parts are not being cared for. He should demand the proper amount of help, and if it is refused him he would act wisely to resign. He cannot afford to take the responsibilities sure to arise from an insufficient force. The force should be large enough to keep all very busy and yet get the work all done each day.

While the business of banks is constantly increasing, so the methods of keeping the accounts are constantly being changed, improved, and abridged; so that the increased business does not demand a proportional increase in the number of assistants to the bookkeeper, though the number of regular clerks and tellers may have to be increased. There is little danger, however, that banks will employ too many assistants; the trouble is generally the other way.

§ 478. **Eternal Vigilance.** A banker is presumed, above all classes of business men, to be accurate and business-like in all his dealings. He is expected to be a model business man in every way. He must be prompt, decisive and well informed concerning his own business.

So a bank bookkeeper is supposed to be well skilled in the manipulation of accounts. It requires an unusual degree of accuracy to handle properly and correctly the depositors' accounts. These require the closest attention to prevent errors. And eternal vigilance is the only safety. It is the prime virtue in a bank bookkeeper.

If an error should occur in a depositor's account, he is almost certain to find it and report to the bank. To say the least, this is humiliating to an accountant. It also causes the

dealer to look thereafter with suspicion on his bank account. He might make many errors himself, yet he expects others to be accurate, and if he finds one error in his account with the bank, no matter how small, he will suspect other and larger blunders. These things exert a great influence on a bank bookkeeper, and almost compel him to be accurate.

§ 479. **Mistakes in Bank Records.** Errors are made by charging unreal payments, or excessive payments; making wrong credits; inaccurate calculation in figuring interest, discount and balances of accounts; and mistakes in carrying amounts from one book to another.

A bank pass book returned with the vouchers, is only *prima facie* evidence of the correctness of the account, and parol evidence may be admitted to explain it. A pass book is not a contract, it only shows the state of the funds.

If the pass book be written up, and handed, with the vouchers, to the dealer, it is equivalent to a statement of the account. And a subsequent retention of the same by the dealer, for some months, or less time, without objection, and a final withdrawal of the exact amount shown by the book, is clear evidence of a settled account, and *prima facie* establishes the accuracy of the items.

Mistakes are common. The bank bookkeeper is, of course, human and liable to err, and in handling the depositors' accounts he must exercise extraordinary diligence.

§ 480. **Form of Books.** It is not intended, in this work, to present any system of bank bookkeeping, nor to fill up several pages with forms which are generally of no value to either the bookkeeper or the student. Each bank has a system of accounts peculiar to its own business, and any changes which might be of benefit to the accountant, and which he cannot devise for himself, may be obtained from any of the many books treating of bank bookkeeping. And the student who wishes to prepare for this work, will generally find the necessary forms of books in the business school

where he obtains his business education, and will have them explained to him more comprehensively than we have space to do in this treatise on the Business of Banking.

§ 480*a*. **Books Used.** The number, size and kind of books employed vary according to the kind of bank and its volume of business. In a large national bank we find a general ledger, from two to six dealers' or depositors' ledgers, a debit journal, a credit journal, a discount register, a collection register, a domestic tickler, a foreign tickler, a draft register, a remittance register, a daily statement book, a stock ledger, a subscription book, a paying teller's cash book, a receiving teller's cash book, an offering book, a dividend book, a paying teller's proof journal, a receiving teller's proof journal, an individual's liabilities book, a protest book, stock certificate books, letter books, signature books, trial balance books, dealers' balance books, pass books, draft books, indexes, etc.

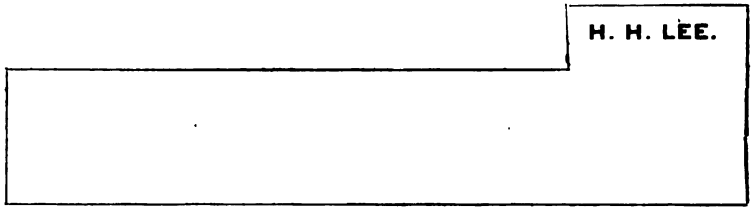
In a smaller bank there need be but one dealers' ledger, one journal (the debit and credit journals being the right and left pages of the regular journal), and one tickler. In still smaller banks only one ledger for general and depositors' accounts need be kept, and the number of other books greatly reduced.

Regarding size, the large banks necessarily have large, heavy and substantially made books, while the books are smaller and less costly in small banks.

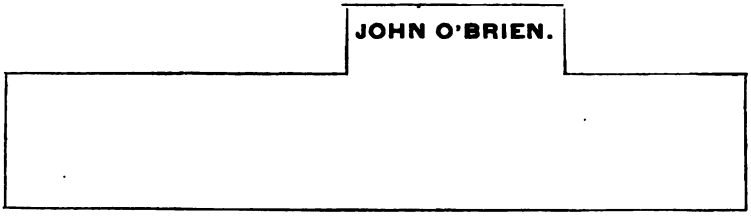
§ 481. **Care of Paid Checks.** The bookkeeper takes charge of all paid and charged checks, and keeps them so long as they are retained by the bank. He should assort them and keep them in such condition that they may be referred to at any time. That this be done properly is very important and it requires great care that trouble may not arise from mistakes in assorting. This work should be done by the bookkeeper, or under his personal supervision, at least.

Most banks have some method for this work, and we have found the following method in use in several Chicago banks.

Pieces of card board are cut a little longer than the checks, and arranged edgewise in a drawer or apartment where the checks are to be kept. The tops of these cards are cut into an index and bear the depositor's name—there being a card for each depositor. They are used as dividing lines between depositors' checks in the check drawer. Here is the shape of one of these cards:



The next one to the left would, of course, have the wide part nearer the center, so as to avoid hiding the name in case there were but a few checks between the two cards, something like this:



The next one has the wide part still further to the left, until the left end is reached, when they again begin at the right end. In this way the sorter can see instantly where any check belongs, and checks may be referred to without needless delay.

CHAPTER XIV.

THE CLEARING-HOUSE.

§482. Definition.
483. Early methods.
484. The origin of the Clearing-house.
485. The modern Clearing-house.
486. Utility.
487. How to organize a Clearing-house.
488. Arrangement of desks.
489. How banks prepare the exchanges.
1. Classification.
2. Exchange slips.
3. Settling clerk's statement.
4. Debtor and creditor banks.
5. Check tickets.
6. Credit tickets.
7. Settling clerk's receipt.
§490. How clearings are made.
1. The clerks arrive.
2. Called to order.
3. Making the clearings.
4. The Clearing-house proof.
5. Errors.
491. How the balances are paid.
492. Transfers.
493. Fines.
494. Reclamations and errors in the exchanges.
495. Returning bad checks.
496. Country clearings.

§ 482. **Definition.** The Clearing-house system is a device by which all its members are joined, so to speak, in one immense banking association, for the purpose of transferring credits from one bank to another without the use of money.

If a number of depositors of the same bank have transactions among themselves, and make their payments by checks, the bank can settle any number of such transactions by transfers of credit from one account to another without handling a single cent, so long as the check holders do not draw the money. In exactly the same manner the Clearing-house transfers the credits of one bank to another.

§ 483. **Early Methods.** Every banker has, every morning, checks and drafts against other banks of the city, and they have claims on behalf of their customers against him. Before the advent of the Clearing-house system these charges were sent out by clerks the first thing in the morning for collection, and they had to be paid in money. After they were collected the several banks were credited. But each bank's clerk had claims against every other bank, and this made it necessary that every banker keep on hand a large amount of money for the sole purpose of meeting these banking charges. The retention of enough money to meet these obligations caused great loss in the use of the bank's funds, and such a system at the present time of immense financial transactions would cause an irretrievable loss.

§ 484. **The Origin of the Clearing-house.** To remedy the inconvenience of keeping separate accounts with every bank in the city, an ingenious plan was conceived by the clerks of some of the banks at Naples in the sixteenth century. A central chamber was instituted, to which each bank sent a clerk who exchanged, or set-off, the different claims against each other, and paid only the difference in money. Bank A brings to the central chamber charges against Bank B amounting to $20,000; Bank B has charges against Bank A for $25,000. They exchange their charges, and Bank A pays Bank B the difference, $5,000, and thus charges amounting to $45,000 are paid with $5,000 in money. The different credits are adjusted among the different banks as easily as before, and an enormous amount of money is set free for the purpose of circulation, and is, in fact, equivalent to so much increase in the bank's working capital.

§ 485. **The Modern Clearing-house.** The Clearing-house, as we know it, is really a modern institution, and, while there is nothing mysterious or particularly intricate about this rapid process of making bank settlements, yet there are few persons who understand it. This is perhaps due to the fact that almost

all the literature on the subject has appeared during the last twenty years.

The Clearing-house proper was founded in London in 1775, but statements of its transactions were not published until 1867, so that little is known of its early history. The Bank of England was not admitted as a member until 1864.

The New York Clearing-house was organized in 1853; the Boston Clearing-house, in 1856; the Philadelphia, Cleveland and Baltimore Clearing-houses, in 1858; the Worcester Clearing-house, in 1861; the Chicago Clearing-house, in 1865. At present there are no less than seventy of these institutions in the United States. The total clearings for the year 1891 in the United States Clearing-houses amounted to the enormous and almost inconceivable sum of $56,484,000,000. In England the clearings were $38,000,000,000; in Germany, $2,988,000,000; in Italy, $114,857,000.

§ 486. **Utility.** The rapid growth which the clearing system has shown since 1860 is due, largely, to the use of bank checks in making payments, which has in late years attained an unprecedented development. The great majority of checks coming to banks, are drawn on some other bank, and these must be collected by the receiving bank. As business increases in any city each bank has a larger number of claims on other banks, and these become so numerous that they cannot well be settled between the several banks.

The utility of the system is thus set forth by G. D. Lyman, the first manager of the New York Clearing-house:

"*First.* The condensation of many balances into one, and the settlement of that balance without a movement of specie.

"*Second.* The avoidance of numerous accounts, entries and postings.

"*Third.* Great saving of time to the porters and of risk in making exchanges and settlements from bank to bank.

"*Fourth.* Relief from a vast amount of labor and annoyance to which the great army of cashiers, tellers and bookkeepers were subjected under the old system.

"*Fifth.* The liberation of the associated banks from all injurious dependence on each other.

"*Sixth.* The absolute facility afforded by the books of the Clearing-house for knowing at all times the management and standing of every bank in the association."

§ 487. **How to Organize a Clearing-house.** When the banks of a town decide to form a Clearing-house, they associate themselves together, with certain regulations, as they may elect, for the purpose of settling daily the demands arising among the banks. They elect a president, a secretary, a treasurer, a manager, and a Clearing-house committee. Other committees, such as nominating, admission, arbitration and conference committees, may be appointed. The Clearing-house committee has charge of the operations of the Clearing-house and attends to all matters not otherwise specially provided for. The manager is usually selected or appointed by the Clearing-house committee. This officer gives his whole time to the work and is paid a regular salary, and must give bonds for the faithful performance of his duties. He has, under the direction of the Clearing-house committee, immediate charge of all the work of the association, and all the clerks, whether of the Clearing-house, or of the banks, when at the Clearing-house for the purpose of making settlements, are under his control.

In some of the smaller towns there is no regular place of meeting, the different banks taking turns. If one bank has a large room (directors' room, for example), the association may meet there, though this is a matter for the association to determine for itself.

§ 488. **Arrangement of Desks.** In Clearing-houses having only a few members and meeting in banking rooms, a table, such as is usually found in a board of directors' room, is used for making the clearings. In larger associations regular desks are provided. The New York Clearing-house, which owns its own building, has three parallel rows of desks; on each desk the name of the bank for which it is designated is lettered on

a silver plate in front, and it also bears the bank's number. The desks at the Boston Clearing-house are arranged in an elliptical form, all facing outward. At Chicago the desks are in two parallel rows.

§ 489. **How Banks Prepare the Exchanges.** In order to give the reader a more comprehensive understanding of the workings of the system, we will take him into both the banks

EXCHANGE SLIP.

1st TELLER.

NO. 4.

State National.

From No. 13

GLOBE NATIONAL BANK.

August 2, 1892.

	471	00			
	890	30			
1	000	00			
	50	00			
18	750	00			
5	000	00			
	48	40			
	3	30			
51	000	00			
96	408	00			
173	621	00			
	861	00			
	43	80			
75	000	00			
1	241	18			
	1	62			
	500	00			
251	268	60			

and the Clearing-house and show him a morning settlement. We will do this by showing how the banks prepare for the clearings, and how the clearings are effected by the association.

First. About the first thing to do with the exchanges, after they are received by the bank, is their classification according to the banks on which they are drawn. The teller into whose hands the exchangeable paper comes usually has pigeon holes, one for each bank, numbered with the Clearing-house numbers. The paper is assorted and placed in the pigeon holes of the bank on which it is drawn. Clearing-houses often require members to place or stamp some mark, usually the name and number of the bank clearing it, upon all exchanges, so as to indicate the channel through which it has passed. This is usually stamped on the back of the paper.

Second. In preparing the exchanges, which is done the first thing in the morning after the bank opens its doors, the amounts of the items of the demands against other banks is entered on an Exchange Slip. See form on page 281.

The first footings on the slip, $173,621, represent the amount of exchanges received by the Globe National on the State National after the clearings were made on Aug. 1, and are thus listed for the clearings for the next day. The additional items received by the next morning's mail, or otherwise, in time for the clearings, make the total amount $251,268.60 taken to the Clearing-house by No. 13, the Globe National, against No. 4, the State National.

The Globe National has one of these slips for each bank in the Clearing-house.

The exchanges on each bank are pinned up with the proper exchange slip, the footings of the slips compared with the entries on the settling clerk's statement, and the packages put in numerical order for delivery at the Clearing-house.

Third. After the exchange slips are made out, the amounts are transferred to the Settling Clerk's statement shown here-

with. The "first debt" column contains the amounts of exchangeable paper which the bank holds and has made up before the early morning receipts, as shown by the first footings of the exchange slip. The "total debits" column represents the total amount taken to the Clearing-house by the Globe

No. 13.

GLOBE NATIONAL BANK,

SETTLING CLERK'S STATEMENT.

August 2, 1892.

NO.	BANKS.	FIRST DEBIT.	TOTAL DEBITS	BANK'S CR.	NO.
1	Merchants' National	58,600.00	58,900.00	4,600.00	1
2	Columbia National.....	1,700.00	41,300.00	1,975.80	2
3	Citizens' National	.....	800.00	22,470.00	3
4	State National.....	173,621.00	251,268.60	171,755.00	4
5	Bank of America	1,110.00	16,000.00	46.19	5
6	Nat'l Bank of Commerce.	500.00	500.00	.....	6
7	Des Moines National.....	17,846.10	20,100.50	59,791.00	7
8	Central National	146,371.00	187,119.15	1,875.00	8
9	Union National.....	1,200.00	1,200.00	16,742.00	9
10	First National.....	.....	.....	114.70	10
11	National Reserve	41,000.00	51,000.00	100,700.00	11
12	Iowa National.....	1,962.01	6,962.01	87,100.40	12
13	Globe National.....	.....	.....	.....	13
14	Manufacturers' National..	1,241.13	1,246.13	10,000.00	14
15	National Commonwealth .	758.10	758.10	1,000 42	15
16	Capital City National	90.00	10,090.00	17,500 00	16
17	Valley National	1,000.10	14,388.78	273,876.12	17
18	Highland Park National..	200,108.00	246,396 82	100,060 00	18
19	Loan and Trust Co.....	1,244.19	48,247.19	46,801.92	19
20	Kenneth National	164.00	51,776.11	1,000 00	20
21	Nat'l Bank of Republic...	1,199.00	19,499.00	165.00	21
....	Footings	649,714.63	1,027,552.39	917.570 55	
....	Balance	.....	.....	109,981 84	gain
				1,027,552.39	

National Bank, as exhibited by the second footings of the exchange slip. To enable the clerks to prepare the exchanges with the greatest care, the first debit column is made up and footed at the close of business each day for the clearings next day, and thus the heaviest part of the work is done the day before the clearings, leaving the limited time in the morning

to finish the sheet. The "first debit" and "total debit" columns are made up and footed before the clerk leaves the bank.

The "bank's credit" column is left blank, to be filled up at the Clearing-house by the other banks with the amounts brought to the Clearing-house against the Globe National. The footings of this column show the aggregate amounts brought by the other banks against the Globe National, and as the footings of the "total debits" column show the aggregate amount brought to the clearings by the Globe National, the difference between these two columns will show the gain or loss of the morning's settlement.

In the sheet we have presented, we find that the Globe National brought exchanges amounting to $1,027,552.39, and paid, or took away, clearings amounting to $917,570.55. Having brought more than it took away, it is therefore entitled to a cash payment from the Clearing-house of the difference, $109,981.84. In other words, the Globe National Bank owed the twenty other banks, in the association, $917,570.55 as exhibited by the drafts, checks, etc., drawn on it and brought to the clearings by those banks; but those same banks owed the Globe National $1,027,552.39, for paper drawn on them, which it brought to the clearings. They set-off the debts of the one against the other, and the result is that there is due to the Globe National the difference, $109,981.84.

Fourth. The banks which bring to the Clearing-house more exchanges than they take away are called credit banks; those that bring less than they take away are called debtor banks. At a certain time, after the clearings are made, the debtor banks pay the balance due from them, into the Clearing-house, and these balances are then paid to the creditor banks. The aggregate amount of exchanges brought to the clearings is, of course, the same as that taken away, so the balances due to the creditor banks must exactly equal the amount due from the debtor banks.

It is simply an application of the principles of set-off.

Fifth. The amount of the checks for each bank is entered on another ticket, called a check ticket:

NUMBER 4.

STATE NATIONAL BANK.

FROM NUMBER 13.

GLOBE NATIONAL BANK.

251,268 *Dollars,* *60* *Cents.*

One of these tickets is made out for each other bank, and is delivered with the packages at the Clearing-house. These tickets are used to check the entries in the credit column of the statement.

Sixth. The footing of the "total debit" column of the settling clerk's statement is made on another blank, called a "credit ticket."

CREDIT TICKET.

Des Moines Clearing-House.

Aug. 2, 1892.

Credit No. 13.

Globe National Bank, $1,027,552.39.

ROBERT BOWLBY, *Settling Clerk.*

This ticket shows the amount brought to the clearings, and is passed to the manager when the settling clerk enters the Clearing-house. From these tickets the manager or his clerk makes a credit entry to the bank's account.

Seventh. A copy of the amounts in the debit column of the settling clerk's statement is placed on another blank with a space on the right for signatures instead of credits. This is what is called the "Settling Clerk's Receipt."

§ 490. **How the Clearings are Made.** *First.* Each bank in the association sends to the Clearing-house two clerks—a settling clerk, who carries his statement and credit ticket, and a messenger, who carries the settling clerk's receipt and the packages. The clearings are made at ten o'clock, and the clerks begin to arrive a little before that time. Preparing the exchanges is one of the busiest times of the day for most banks, and often every clerk in the institution is put at this work, and then the settling clerks must often run to the Clearing-house to be on time. As each settling clerk enters he passes his credit ticket, showing the amount his bank is to be credited for, to the manager. These amounts are entered on the "Clearing-house Proof." This work is done so rapidly that in a few minutes after the last ticket has been handed in the credit column is completed and footed, showing the total exchanges for the day.

Second. A few moments before ten o'clock the manager taps his bell to call the clerks to order. The settling clerks, with their statements, take their places inside their respective desks, and their own messenger, with the packages and receipts, standing outside the counter. At ten o'clock the bell strikes to begin the exchanges. "No variation from this time is ever allowed, on any pretext whatever, and on this point the Clearing-house is no respecter of persons. A few years ago, Mr. Windom, Secretary of the Treasury, desired to witness the exchanges at New York, and was apprised of the inflexible punctuality required. He arrived some minutes late, only to find that the clearings had taken place just as if he had been an individual in a private station."

Third. At the second tap of the bell each messenger advances one step, which brings him in front of the desk of the first bank to which he is to deliver a package of vouchers. He hands over the package of vouchers against that bank, also the settling clerk's receipt, on which the settling clerk enters his initials to show that the vouchers have been re-

ceived. This receipt is then handed back to the messenger, who advances to the next desk and repeats the operation. Besides receipting for the vouchers received, the settling clerks enter the amount of each package in the credit column of their statements.

This continues until the messenger makes the entire circle and returns to his own desk. He then gathers up the packages which have been left for his bank and returns with them to the bank, while the settling clerk remains to strike a balance. These balances show how much each bank is to pay or receive.

The settling clerk then makes out a "balance ticket" showing these balances:

BALANCE TICKET.

DES MOINES CLEARING-HOUSE.

No. 13. *Aug. 2, 1892.*

Dr. Globe National Bank, Am't Rec'd $ 917,570.55.

Cr. " " " Am't Bro't 1,027,552.39.

Balance $..... due Clearing-house.

Balance due the Globe National Bank, $109,981.84.

ROBT. BOWLBY, *Settling Clerk.*

These balance tickets are passed to the manager's desk, from which he fills up the debit column of his Clearing-house Proof and makes the final footings which prove all the work.

Fourth. As soon as the balances are entered on the Clearing-house Proof, the columns are added and the results announced. The amounts brought to the clearings are credited in the "proof" by an entry in the credit column on the line containing the name of the bank, and the amounts taken away are debited in the debit column. The balance is then taken, showing what the Clearing-house owes to the creditor banks,

and what the debtor banks owe to the Clearing-house. If the work is correct the debit column will balance with the credit column, and the "Due Clearing-house" column will balance with the "Due Banks" column

Fifth. When we consider that this proof is a summary of the whole clearings, and think of the great rapidity of the work,

DES MOINES CLEARING-HOUSE PROOF.

TUESDAY, AUGUST 2, 1892.

No.	BANKS.	Due Clearing-house.	Banks Dr.	Banks Cr.	Due Banks.	No
1	Merchants' National	$.....	$ 8,742.10	$ 15,275.00	$ 6,532.90	1
2	Columbia National	.....	26,842.93	50,871.00	24,028.07	2
3	Citizens' National	7,490.00	96,000.00	88,510.00	.....	3
4	State National	25,928.88	125,000.00	99,071.12	.....	4
5	Bank of America	.....	3,275,820.00	4,962,000.16	1,686,180.16	5
6	National Bank of Commerce	9,592,112.70	11,240,112.90	1,648,000.20	.....	6
7	Des Moines National	.....	675,390.11	14,701,861.41	14,026,471.30	7
8	Central National	.....	9,974,640.00	14,600,400.72	4,625,760.72	8
9	Union National	.....	1,901,771.19	4,771,750.10	2,869,978.91	9
10	First National	6,694,698.65	26,842,100.41	20,147,401.76	.....	10
11	National Reserve	.....	2,962,431.26	4,870,000.71	1,907,569 45	11
12	Iowa National	2,750,800.79	2,750,800.79	.....	.....	12
13	Globe National	.....	917,570.55	1,027,552.39	109,981.84	13
14	Manufacturers' National	.....	.....	2,000,708 02	2,000,708.02	14
15	National Commonwealth	4,854,097.61	5,871,362.46	1,017,264,83	.....	15
16	Capital City National	50,475.84	91,746.83	41,270.99	.....	16
17	Valley National	.....	3,798.66	14,975 90	11,177.24	17
18	Highland Park National	.....	418,742.60	1,004,962.80	586,220.20	18
19	Loan and Trust Co	2,935,338.50	3,246,180.40	310,841.90	.....	19
20	Kenneth National	1,722,153.41	2,186,313.83	464,180.42	.....	20
21	National Bank of Republic	.....	411,972 41	1,190,460 00	778,487.59	21
		$28,633,096.40	$73,027,359.43	$73,027,359.43	$28,633,096.40	

we do not wonder that errors occur. An error may be in the footings of the credit column of the settling clerk's statement, and be it ever so small it will throw the proof out of balance. If the proof fails to balance, the manager announces that the difference is so many dollars. While he was preparing the proof the clerks were checking off their credit tickets and testing their statements, and it may be they have found the errors before the difference is announced.

The clearings are usually made in from five to ten minutes, and the clerks have from thirty to forty-five minutes to make their statements. In Boston the time is thirty minutes, and in New York forty-five minutes. Sometimes an error occurs

that defies detection, and the final process is for the settling clerks to pass around, by turns, to the other desks and call off the amounts of their exchanges to every other bank. This will usually disclose the discrepancy.

§ 491. **How the Balances are Paid.** The manner in which the balances are paid, and the time for such payment, is a matter of regulation which each association may determine to suit itself. At the New York Clearing-house, the debtor banks must pay their balances in coin, United States legal tender notes, gold, silver or Clearing-house certificates, between 12:30 and 1:30 P. M. At Boston these balances must be paid before 12:15 P. M. At 1:30 P. M. the creditor banks come to get the amounts due to them from the Clearing-house.

"Should any bank make default in payment of its balances at the proper time," says Bolles, "the amount of that balance must be immediately, on requisition from the manager, furnished to the Clearing-house by the several banks exchanging with the defaulting bank, in proportion to their respective balances against that bank resulting from the exchanges of the day. The amounts so furnished constitute claims against the delinquent bank only, the Clearing-house being in no way responsible. The defaulting bank is immediately suspended from the Clearing-house."

§ 492. **Transfers.** When the banks pay their balances, the manager gives them a receipt for the amount paid.

To avoid the risk of transferring so much cash to and from

BURLINGTON CLEARING-HOUSE.
TRANSFER ORDER.

$72,000.00. *Burlington, Iowa, Aug. 2, 1892.*

Transfer to the credit of the KENNETH NATIONAL BANK, *Seventy-two Thousand Dollars, and charge the same in settlement of the balance due to Monroe National Bank.*

To H. P. DRAKE, *Manager.* S. B. SMITH, *Cashier.*

the Clearing-houses in payment and receipt of balances, some associations use what are called "Clearing-house Orders," something like the one given herewith. These pass as cash between the settling banks, and are received and debited or credited by the manager the same as cash.

Another form of these transfers or certificates, and the one which is in use at Des Moines, Iowa, is as follows:

DES MOINES CLEARING-HOUSE.

$____ Des Moines, Iowa, _____ 189__

In settlement of the balances of the Exchanges made between the members of this Association to-day, there is due from (No____) the _____ Dollars, payable on demand to (No.____) the _____

Not transferable, and without recourse upon any other member of this Association after two o'clock P. M. of this day. _____ Manager.

By this method the debtor bank is ordered to pay the creditor bank, and the manager has nothing further to do with the matter.

These forms differ in different Clearing-houses, but the purpose of having a debtor bank pay to a creditor bank is always the same. Of course, the use of these transfers makes the payment of balances and even the exchange of vouchers a matter settled entirely between the banks, the Clearing-house having nothing to do but to apportion the payments and make out the transfer tickets.

§ 493. **Fines.** At the New York Clearing-house the following fines are imposed for errors not found by 10:45 A. M.:

1st. Errors in the credit side of the Settling Clerk's Statement, *i. e.* the amount brought ..... each $3.00
2d. Errors in the debit entries, *i. e.* amount received, " 2.00
3d. Errors in the tickets ..... " 2.00
4th. Errors in footing debit column ..... " 1.00
5th. For being late ..... " 2.00
6th. Disorderly conduct or disobedience to manager's instructions ..... " 2.00
7th. Debtor banks' failure to appear to pay their balances before 1:30 P. M. ..... " 3.00
8th. Errors in delivering packages ..... " 1.00

If the errors are not discovered at 11:15 A. M. the fines are doubled, and at 12 M. quadrupled. The manager notifies each bank once a month of the fines charged against it and of all the banks fined. The object of these fines is to induce banks to send clerks to the Clearing-house who are rapid and accurate in figures and generally competent.

§ 494. **Reclamations and Errors in the Exchanges.** Where errors occur in the exchanges, or checks be returned for indorsement, or for any other reason, these are adjusted directly between the banks, the Clearing-house being in no way responsible for them. Should errors be found in the specie, or United States legal tender notes, received at the Clearing-house, in payment of balances, contained in bags or packages, sealed and properly marked, notice must be sent at once to the bank whose mark and seal the package bears, and reclamation must be made by 1:00 P. M. of the day following the receipt of such bag or package. The Clearing-house is not responsible for the contents of such packages or bags, and will have nothing to do with adjusting any errors.

§ 495. **Returning Bad Checks.** Clearing-houses have certain regulations, and one of these is that bad checks, "not good," are to be returned before a certain hour, usually an hour or so before the banks close for the day.

Should a bank receive a check through the clearings that is not good it must return it to the bank which brought it to the clearings.

Should a bank receive several checks through the clearings, drawn by a dealer whose deposit is not large enough to meet all such checks, it cannot apply the balance to the payment of any of them. It may, however, notify the banks from which they came that it wishes to hold such checks after the time of making reclamation, in anticipation of a deposit by the drawer. If such permission is received a bank may hold the checks for payment, and though none will be paid until the whole lot is paid, yet no other checks by the drawer can be presented over the counter and paid.

In a case* of this kind the drawee bank concluded to send all the checks back to the banks which had charged them through the Clearing-house. This was done at 2 o'clock, and at the same hour the drawer failed. The messenger delivered the checks in the same way as he usually did such work, and the banks nearest the drawee bank received their checks first and some minutes before the banks that were furthest away. These banks which received their checks first immediately sent them back to the bank to be paid over the counter. This they could do so long as the balance held out, leaving nothing for the later presenters. The paying teller could only apply the rule of first come first served, and this was what should be done in such cases. This method is in accordance with law and good banking. To pay such checks in the order of their date or to proportion the balance among the checks would be incorrect banking.

§ 496. **Country Clearings.** Banks that are not members of a Clearing-house, but located in Clearing-house cities, make their clearings through some member of the Clearing-house. Banks located in country towns have a corresponding bank in a Clearing-house city as their settling agent.

* Patten on Practical Banking, p. 360.

PART II.

COMMERCIAL CREDITS

CHAPTER I.

THE THEORY OF CREDITS.

§497. Definition.
498. Meaning of credit as here treated.
499. Is commercial credit a science?
§500. Reasons for studying the subject.
501. Who should study it.

§ 497. **Definition.** Credit is a circulating medium of exchange. If the producer could always sell for ready money to the manufacturer or wholesale dealer, he could use this money in producing other goods to replace those just sold. So, if the retail dealer could pay ready money when he buys from the wholesale dealer, the latter might immediately purchase other goods to replace those just disposed of. In the same way the retail dealer might replace his stock of goods, if the final buyer, the consumer, was always to pay ready money for his purchases.

Thus we see that if everybody would pay for the goods bought, the great stream of production would go on as fast as demand or consumption might permit. In this way the movement of products would be effected by money, which, in this case, would be the circulating medium. But this is by no means always the case. In fact few persons can get the money to pay for all purchases at the time of buying. Few merchants or manufacturers have enough money, on commencing business, to pay for all their purchases. If production had to stop here until the consumer paid for the goods bought, a great calamity to commerce would result.

But now suppose the producer has confidence in the wholesale dealer's honesty and ability, and believes he will pay when he says he will, he sells the goods to him on credit; that is, instead of the money, he takes the wholesale dealer's promise to pay at a certain specified time.

Thus he sells the goods for a right of action, a debt, or for credit. Now as this sale is made in the same way as if made for money we see that credit has caused exactly the same production as money. Hence, credit is a circulating medium of exchange.

This debt or credit may be recorded as a debt due on the merchant's books of accounts, or it may be represented by the buyer's promissory note, or by a bill of exchange. It makes no difference as to its form so that it serves the same functions in commerce as money.

Now, the wholesale dealer sells on credit to the retail dealer, who, in turn, sells on credit to the final buyer, the consumer. In the latter case the credit is usually recorded as a book account—few consumers give any written promises to pay.

It is now plain that at every stage of the circulation of products, credit does the work of money, and is therefore as much of a circulating medium as money.

Without credit the great volume of business of the business world could not be transacted. There is not enough money in the United States to do the business of a single one of our large cities.

§ 498. **Meaning of Credit as Here Treated.** It is not our intention, in this work, to treat credit from an economical or theoretical standpoint. The intention is to present to the business man, the banker and the student, a helpful treatise on the subject of practical credit making. To do this it is necessary to restrict the meaning of the word to its practical meaning, *i. e.*, the selling of goods on time. Taking this view of the word, its simplest meaning is *to trust.*

We wish to treat the subject in such a manner that those who have goods to sell will know what constitutes a favorable or unfavorable credit condition, so that they may trust out their goods to those who will probably pay for them.

§ 499. **Is Commercial Credit a Science?** Fully ninety per cent. of the financial transactions of today are made upon credit in some form. It is, therefore, not strange that the study of this subject should employ some of our best intelligence. A hundred years ago the meaning of the term credit, in this country, differed as much from its meaning today, as the sickle differs from the self-binder. Pioneers do not, as a rule, carry much collateral in their belts. The mutual dependence incident to primitive conditions, creates a common confidence, and this, in a large measure, constituted the basis of credit in the early days. The loaning of a sum of money by a friend to another in distress, without security, would in no sense be considered an extension of credit at this day. It would be a reposing of confidence, pure and simple. The commercial fabric has become so large, and credit is so clearly the cohesive element in it, and its investigation has become so thorough, that it may be fairly demonstrated a commercial science.

"Credit is not a characteristic but a condition. Not any one or several of the elements of honesty, means, intelligence, business ability, past record, family connections, etc., would in itself constitute a safe basis of credit. Credit is the resultant of all these and a great many more factors. It is determined in the same manner as the engineer determines the resultant strength of the iron bridge, by taking into account all its component parts, such as foundations, piers, beams, spars, stays, rivets, as well as curves, angles and spans. Credit, like the bridge, is calculated to sustain super-imposed weight as well as withstand lateral pressure. Its entire strength is no more than its weakest part.

"In determining its usefulness, special reference must be

had to extraordinary occurrences, unusual seasons and shifting tides.

"Credit is by no means an exact, but rather a speculative science, and is more difficult of mastery than 'the Greek verb,' 'Butler's Analogy' or 'The Nebular Hypothesis.' The elements of a man's present condition are not valuable as a basis for credit calculations, unless we can find by induction that they stand as exponents of general principles.

"Take, for example, the element of means. We want to inquire whether these means are a growth or a gift. If a growth, we want to analyze all the rills and rivulets that helped to swell the stream to its present proportions; we want to see whether its course has been straight or devious; whether it has been open for inspection, or diverted into dark and hidden courses, when a storm cloud gathered. If a gift, perhaps the stream of wealth came down from former generations, and we want to know whether it has been kept pure or become polluted; whether its flow is still strong and full, or whether the quicksands are absorbing it. Preservation is sometimes as good as acquisition. Stolen gold in a credit fabric, would blacken at the first touch of sunlight, while means depleted by response to honest obligations would be worth a premium in the calculation. Thus, means may be either a positive or negative quantity—a plus or minus factor in the credit problem. After following out these general lines regarding means, we must study the sub-divisions, then take all the other elements of a man's condition, and analyze them one by one in like manner. After this is done, the value of each factor known or approximated, then we are ready to begin the solution by a deductive process.

"At each step the subject widens in scope and interest, and becomes more difficult as we pass from the study of material to immaterial qualities, from matter to mind.

"To add further interest to the study, we might add that no two credit problems have the same factors, and the purposes

for which credit is sought are as various as the solicitations are numerous."[a]

§ 500. **Reasons for Studying the Subject.** As we have already shown, the transactions which constitute commerce are not all for cash. We part with our property and receive in lieu thereof the buyer's oral or written promise to pay. Will the buyer discharge this promise? This question can be answered by an analysis of the buyer's honesty, and success; and his success depends on his ability, character, economy, capital, industry, experience, and other qualifications and conditions. Before trusting out our goods we should decide as to the probability of getting our money and thereby our profit, which is the object of business. We must make this decision before selling, and not afterward. We should know when to sell, and our ability in this matter is of the greatest importance. The ability to sell goods is secondary. The ability to do the most business, does not determine a man's success. To be able to sell to buyers who will pay is of first importance. While trade and credit go hand-in-hand, yet a proper exercise of credit giving determines a man's success in trade. In fact trade depends largely upon credit, and credit depends on our confidence in the buyer's ability to pay. To make a favorable credit, our confidence must be based on good judgment and a thorough knowledge of favorable credit conditions in the buyer.

Our credit system is the foundation of all our commercial and financial interests, and the wonderful growth of commerce in this country is directly due to it. It affects the welfare of every individual, and on a wise use of it depends, very largely, the financial success of all. Can any study be of greater importance? Because few are informed on the subject, is not due so much to a lack of interest as to a lack of literature on the subject, and therefore the want of proper facilities for gaining the requisite information. Every merchant, and every

[a] W. R. Grim, in "The Capitalist."

business man is, by his daily experience, constantly impressed with the importance of a proper study of the subject.

Hon. Edward Everett once said: "I should deem the formation of sound and sober views on the study of credit one of the most desirable portions of a young merchant's education."

No set of rules can be given, and no amount of knowledge gained, that will insure absolute safety in extending credit favors. We do not expect this. No matter how much knowledge, or experience, or conservatism a man may have, his judgment will not always prove to have been correct, so that to a young man who is about to enter the world of business and whose experience is yet to be gained, a proper knowledge of the subject in hand cannot be over-estimated.

§ 501. **Who Should Study it.** *First.* The subject is of the utmost importance to the business interests of the entire country, and it thereby affects the interest of every individual. While we treat the subject almost wholly from the seller's point of view, the object of making the reader a competent judge of whom to trust safely is not for a moment lost sight of, yet the principles set forth will enable the buyer to conduct himself in such a manner as to be entitled to necessary credit favors. No other country on the globe does so much credit business as we do, and therefore every man in and out of trade should learn all he can on the subject.

Second. Every man engaged in business, trade, manufacture, and whoever does much credit giving; every clerk, cashier, bookkeeper and salesman who is often asked for credit favors; every boy, young man, or young woman who contemplates a life of business or who expects to enter any position connected with a business establishment; all these should be well drilled in this important branch of a business education.

Third. Lawyers, who act as collecting agents for merchants, should be well versed in this matter, or the wisdom of their recommendations to their client for further time, on behalf of the debtor, will not be apparent. They should know

enough about business affairs and what constitutes a safe credit favor to enable them to be governed by the same rules regarding property, volume of business, nature of the assets, and the like, to determine questions of credit extension in the same way as they are determined by capable business men.

Fourth. The subject of credit is of great importance to every banker. The whole business of banking is built on credit. Every deposit, every loan, every discount, every draft, every bank note—the entire business—is simply a system of credit giving. When a banker discounts a real or an accommodation bill, or a note, he is trusting—in the absence of actual securities deposited—to the borrower's ability and willingness to pay, just as a merchant does when he extends credit to a buyer. A thorough knowledge of credit is as essential to the banker as to the merchant.

Fifth. And the traveling salesman should be a competent judge of whom to trust, as a great many credit favors are given on his recommendation. Not all commercial travelers are good judges of credits. Many of them are so eager to make sales that they treat the reliability of their customers as a secondary matter. This is not only wrong, but the agent does not thereby attain that degree of valuable service which he ought to render to his house. If he be a good salesman and likewise a good judge of credits he is doubly valuable to his firm. To sell is much easier than to collect.

CHAPTER II.

LOSSES BY FAILURES.

§ 502. Business Failures. | § 503. Percentage of loss.

§ 502. **Business Failures.** The following table exhibits the business failures in the United States for thirteen years:

Year	No. of Failures.	Total Liabilities	Actual Assets	Per cent. of Assets to Liabilities
1881	5,929	$76,024,135	$35,936,218	.47
1882	7,635	93,200,000	47,431,625	.51
1883	10,299	175,942,718	90,896,246	.52
1884	11,620	248,721,756	134,640,200	.54
1885	11,116	119,176,244	55,272,914	.46
1886	10,568	113,624,218	55,889,641	.49
1887	9,740	130,642,800	64,676,410	.50
1888	10,587	120,242,402	61,999,911	.52
1889	11,719	140,359,490	70,599,769	.50
1890	10,673	175,032,836	92,775,625	.53
1891	12,394	193,178,000	102,893,000	.53
1892	10,344	114,000,000	60,000,000	.53
1893	15,560	402,400,000	262,400,000	.65

We also present herewith a classification of the failures of 1890 and 1891, according to causes which led to disaster. This table was arranged by Bradstreet's Mercantile Agency, and represents a great task. The "disasters" include com-

Failure due to	*No.* 1891	*No.* 1890	*Assets* 1891	*Assets* 1890	*Liabilities* 1891	*Liabilities* 1890
Incompetence	2,021	2,005	$8,563,259	$10,656,524	$16,268,941	$21,545,326
Inexperience	592	611	4,077,785	1,951,933	6,021,670	3,562,065
Lack of capital	4,869	4,052	34,572,098	23,571,043	61,716,157	45,818,944
Unwise credits	509	502	5,389,382	3,965,656	9,223,319	7,204,055
Failures of others	279	257	8,723,326	9,645,954	16,195,080	20,798,648
Extravagance	251	232	1,399,991	1,265,670	2,584,181	2,626,381
Neglect	383	390	1,049,640	1,223,198	2,079,709	2,411,502
Competition	199	246	929,215	1,235,549	1,856,352	2,194,551
Disaster	2,075	1,358	21,959,012	28,637,846	40,736,054	42,650,814
Speculation	341	604	12,198,055	8,917,424	23,356,718	19,616,481
Fraud	875	416	4,031,237	1,604,828	13,139,819	6,612,069
Totals	12,394	10,673	$102,893,000	$92,775,625	$193,178,000	$175,032,836

mercial crises, floods, fires and crop failures, and "frauds" represent fraudulent disposition of property.

It must be understood that these records do not exhibit all the failures of the country, for where failures have occurred and the assets were sufficient to pay dollar for dollar, and the loss, therefore, fell entirely upon the principal, such failures are not reported and are not included in these tables. Statistics of this kind are very meager, and not until 1890 have the mercantile agencies attempted any compilation of such facts, and no attempt has yet been made to report those who have been unfortunate in business, unless some of the loss has fallen on the creditors.

Statistics show that 95 per cent. of all who enter mercantile pursuits fail at some period of their career. This seems to be an appalling state of affairs, and if it be true there must be some good explanation for it.

The changes in business concerns throughout the United States and Canada are computed at 2,000 a day. Not necessarily are all these failures, for included in the changes are dissolutions, retirements, deaths, changes of ownership and fires. There are at the present time nearly 1,220,000 business names in the two countries, and that about one-half of these should be involved in changes during the course of 300 working days is almost incredible.

"Personal environments seldom alter the individual financial condition of a merchant, except so far as rises in values are concerned, hence, as thorough a knowledge of character, capacity and capital of a debtor as can be had is as inseparable to the dispenser of credit as a compass is to a mariner. Business operations are becoming more and more ephemeral in their character, consequently more faith is needed in the transaction thereof, and faith without knowledge is simple superstition—a rudderless vessel, indeed, to widen commerce upon.

"The greater number of failures is not among men of limited means, but among men of limited knowledge. Abund-

ance of capital at the start is not essential to a successful business man. A good character, an industrious disposition, economical habits and a knowledge of the business undertaken, are qualifications that capital cannot make amends for."

§ 503. **Percentage of Loss.** We find that the present capital employed in commercial pursuits is about $4,500,000,000. It is safe to assume that about $1,300,000,000 of this is beyond the danger line of the credit system; this leaves $3,200,000,000 of capital that is affected by and dependent on the credit system for its employment. To estimate the per cent. of loss on the business of the country we may multiply the capital by four, as we probably turn it that many times a year; this gives us a volume of business of $12,800,000,000 per annum that is subject to and dependent on the credit system. We also find from our table of business failures that for eleven years the average annual loss has been $160,000,000; this makes about 1¼ per cent. loss on this volume of business.

Thus it appears that we are doing an immense amount of business, not alone for nothing, but at an actual loss of capital. It is often asserted that the merchant figures his profits high enough to cover all losses from bad debts, and that, therefore, the solvent buyers pay the losses occasioned by those who are insolvent and cannot pay. But this is not always the case. In many localities the competition is so sharp that the merchant, to hold and extend his trade, must fix his profits without any allowance for loss, and whatever is lost by reason of bad debts is so much of a drain on the net earnings of the business.

Now we are confronted with the query: Does engagement in business render such enormous losses necessary and unavoidable? Yes and no, with greater stress on the *no*. Such losses are, for the most part, due to carelessness, inexperience and ignorance on the part of our business men as to good business principles. It results from a lack of knowledge and judgment in extending credit.

CHAPTER III.

MERCANTILE AGENCIES AND THEIR REPORTS.

§504. The mercantile agencies.
505. The object.
506. How reports are made.
§507. Why the agencies are fallible.
1. Business changes and speculations.
2. Permanent improvements.
3. The weak features.
4. Fees for attorneys.
508. Are mercantile agencies responsible for their reports?

§ 504. **The Mercantile Agency.** The mercantile agency was a direct result of the enormous losses caused by the crisis of 1837. Certain parties, well acquainted with the credit system and commercial affairs, conceived the idea of forming an organization for the purpose of furnishing protection to the mercantile interests of the country. For the furtherance of this idea, several leading houses clubbed together and employed a Mr. Church to gather information regarding dealers' conditions. This was the beginning of our mercantile agency system.

From this beginning the agencies have grown until more than a million individuals, firms and corporations in this country and Canada, are reported by the leading agencies.

R. G. Dun & Co. and Bradstreet's are the foremost agencies in this country. They each have a main office at New York city and branch offices in each of the principal cities of the United States and Canada. They also have branch offices at the more prominent points abroad, such as London, Paris, Berlin, Vienna, Melbourne, and other prominent cities. In Europe they have no mercantile agencies, and these branch offices are established for the benefit of resident subscribers.

§ 505. **The Object.** The object of the mercantile agency is to furnish subscribers with information touching the advancement and development of trade, and for their protection against fraudulent dealers, or against taking undue risk, and the like, in granting credit. They afford facilities to the business community without which our extensive business would be seriously crippled, and credits and therefore business generally wonderfully restricted. The constantly increasing business of the country may truly be said to be due in a measure to these agencies, and the aid and protection furnished by them is becoming better understood and the value of their information more fully appreciated.

In the very nature of things the mercantile agency can never hope to reach infallibility. Men do not confine their working capital to their legitimate business, but devote it to outside and speculative ventures, which may not always prove successful. But, while not perfect, it is nevertheless a great aid to business men.

§ 506. **How Reports are Made.** Books of reference, revised every quarter, are furnished subscribers. These contain the names, business and credit rating, whether high, good, fair or limited, and the estimated pecuniary strength of all the dealers, merchants, manufacturers, etc., of the whole country.

Special reports are also made to subscribers. These are made in detail, setting forth the honesty, character, antecedents, competition, capital, education, liabilities, ability, experience, etc. The telegraph is often used in making special reports.

Besides these they publish a weekly paper in which they record important financial and commercial facts for the information of subscribers.

Subscribers are also furnished with a list of banks, bankers, and banking towns; state collection and assignment laws, etc.

§ 507. **Why the Agencies are Fallible.** *First.* "The American business community is especially prone to specula-

tion, and, as speculation goes, it is largely at the expense of regular business interests. No restrictions are possible to regulate the exercise of individual judgment in regard to the employment of money once in the possession, either in fee simple or in trust. From this alone it will be seen that the financial status of business concerns would vary considerably, even from one month to another. Ratings would require more frequent revision than is possible with the present facilities of the agencies in order to cover these changes of conditions. It is usually only subsequent developments that bring these matters to light, and that at a time when the knowledge of the facts ceases to be of any benefit to us.

Second. "But diversion of capital from its legitimate uses, and to purposes not at all speculative, is also a matter of importance. Many business men, from miscalculation and poor judgment, invest too large a portion of their working capital in permanent improvements and outside ventures, not necessarily of a speculative nature, and thereby tie up capital which should have remained a working force. Although real estate and permanent improvements should constitute the best representatives of capital invested, and indicate the highest order of assets, yet we know from experience that this class of property is not convertible at will in the event of a failure, nor is it, as a rule, available to the creditors. The mercantile agency, however, has no right to ignore capital thus invested; it is obliged to give it a place among the assets and make its ratings accordingly.

"For this reason the keys used by the various agencies to denote capital are less to be relied upon than the report itself, for the latter gives details and shows what the capital consists of and is used in, and from these we make our own deductions. The nature of the assets has much to do with the value of the ratings for the purpose of basing credits.

Third. "This much is certain, if we could always make sure of getting reliable reports, whatever their source might

be, the credit man's task would be made easier, and losses by bad debts would be reduced to a minimum. The weak feature of the mercantile agency system is its dependence on correspondents, who are expected to give their time and service gratuitously, or nearly so, and we necessarily have to contend with frequent negligence, inaccuracy, and incompetency, and sometimes even personal favoritism or prejudice, as the case may be. That this has been and is being remedied to a considerable extent by the better class of agencies, we have evidence from the improving quality of service rendered. Good services command good pay, and it is due to the business world that the agencies secure competent correspondents and pay and charge accordingly."[a]

Fourth. The mercantile agencies recommend attorneys to persons having collection claims, and for this they expect the attorney to furnish mercantile reports of parties in his locality. Sometimes an agency will pay a fee for a report, but the great majority go on the supposition that the commission on their patron's claim is sufficient for the attorney. Doing business gratis, the attorney cannot afford to make a thorough investigation and his report is often simply an opinion that the party is supposed to be good—usually good. Of course the lawyer expects to establish a large clientage and his compensation comes therefrom, and this feature often gives a savor of favoritism to his reports.

Some months ago the "Merchant, Banker and Attorney," of Boston, Mass., advocated the idea of sending out fees to lawyers when a report was required. They then sent an inquiry to prominent attorneys asking their opinion relative to the matter, and among others the following letter was received from E. C. Ferguson, of the firm of E. C. Ferguson & Goodnow, Attorneys and Counsellors, Chicago, Illinois:

[a] P. R. Earling, on Mercantile Credits.

CHICAGO, ILL., Dec. 29, 1891.

MESSRS. LADD, HUNT & Co.,
Boston, Mass.

Gentlemen,—The question as to whether attorneys should be paid for financial reports where the inquiry comes from mercantile agencies, for which the attorney is acting as correspondent, either for the benefit of his name being published in their list, or where he pays for the privilege of having his name published and contributes his services by way of answering inquiries for the prospective fees to be realized out of possible collections, has certainly aroused considerable interest among commercial lawyers. There are many circumstances which enter into the question, as to whether or not they should be paid for answering each inquiry such a fee as will entitle the sender of the inquiry to adequate service, and in a measure reimburse the attorney.

From the position of having answered through our office, during the past ten years, about twenty-five thousand independent inquiries, and also having had in this department the opportunity of judging what service attorneys in general render by making the inquiries ourselves, the subject is in a considerable degree familiar to us. In small or moderate sized towns or cities, where the attorney by natural daily intercourse with the business community is familiar with the financial condition of the merchants, and where the proximity of the attorney's office to the person inquired about is very near, he can with little exertion answer all ordinary inquiries; but beyond this position, and especially in large cities, where the distance between the attorney's office and the merchant or manufacturer varies from two to ten miles, there is no method by which he can ascertain the standing of the person inquired after except by personal interview, and when this fact exists in any comparative degree no attorney can with any degree of accuracy supply information which is adequate for the purpose of basing a commercial rating, nor can he report accurately upon merchants in towns more than an ordinary distance away from his residence.

The methods adopted by nearly all the agencies, including Bradstreet's and Dun's, are such that the information obtained is almost entirely unreliable, and is no doubt conducive to a great many failures and naturally large losses resulting. The best service can be obtained when the attorney or correspondent receives a small fee for the answering of each inquiry, and if perchance there are a large number coming daily, it enables him, if a young man and not very busy, to devote some portion of his time to making the proper investigations, and it permits the older attorney to engage some intelligent person to attend to this class of work. There is no question that the special reporting system, which necessitates making the inquiry at the date of the sale or purchase, produces more good results than any published rating. In this time of rapid commercial increase or disintegration, the necessity of knowing the man's ability and disposition to pay his bills thirty days after the

sale is important, and no compiled matter six months old is depended upon by the wide awake credit manager.

True it is that a reliable agency may send a large number of collections, which in a measure will compensate for the reporting services if rendered free, but the extremely large number of infant agencies, endeavoring to creep to the front by offering the seductive method of free reports, is becoming a burden to the lawyer, and the only change that will act as a remedy is for agencies to arrange their plan so that the attorney each time an inquiry is made will receive a small fee, and especially is this needed in large cities where an experienced reporter must necessarily be employed. It is known that some attorneys have secured information already gleaned by agencies, or from those who have a file of reports, and the merchant who inquires through two different sources receives practically the report compiled by one individual. The merchant can certainly profit, before goods are sold, by ascertaining the latest known condition of his customer, and can well afford to pay a liberal fee for reliable information, as he loses in some individual instances what would repay his reporting expenses for several years.

There are, however, agencies who have sufficient collection service or other legal work to adequately compensate attorneys for the service rendered. One thing is certain, that agencies usually sacrifice everything for the membership fee, and then burden the attorneys with as large reporting service as possible to prove the efficiency of their agency, leaving collections, out of which correspondents must expect their compensation, for later consideration. Then the collection rates adopted by many reporting agencies are so low that attorneys cannot afford to make the collection and divide commissions on the fee, while the delusion held out to the merchant is that the cheap rates on collections should induce them to sign for membership, so that the reports can be secured under the free order. Take the situation in a large city, where the attorney makes many reports. The expense, at a moderate estimate, of making them would vary from five to eight hundred dollars every year, by the time the information was gathered, references looked up and they were properly written and filed away. The fee paid need not be large, but there are strong arguments, and many of them, in favor of the reports being paid for at the time the inquiry is sent, and the merchant would receive more beneficial information, and the experience of old and well informed men in the business who do not, under the present arrangement, desire to represent the agency by having their names used, declining to give any answers to commercial inquiries unpaid for. With this in view, we believe that business men should be made to realize the justness of having a small fee accompany each inquiry sent out.

Yours truly,

E. C. FERGUSON.

§ 508. **Are Agencies Responsible for their Reports?** The question of mercantile agencies' liabilities for the reports which they send out, has been causing quite a little comment of late. The agencies declare that they are not liable for any loss occasioned by following any report which they send out, but they have been sued on several occasions and have had to pay damages. The following opinions have been given to a representative of *Geyer's Stationer* by prominent merchants who do not want their names mentioned for fear of antagonizing the agencies:

"While it is undeniable that the mercantile agencies fill a commercial want, it is absurd and unjust that they should receive the immunities they do. No other concern or individual—even though an arm of the law—can do another a gross and unwarranted injury without becoming liable for the wrong to the extent of his responsibility. The case referred to is about one of the least objectionable of the features connected with these agencies. To my mind the worst is that they can undermine a man's credit, frighten his creditors, and even though he be solvent, break up his business, and force him into liquidation without making themselves legally responsible in the least.

"'I call this a monstrous injustice,' said the merchant with warmth, 'and I hope and believe the time is coming when their evil power will be broken and a victim of their malice or carelessness can gain redress the same as he could against a railroad or city through whose negligence he had been injured. The main trouble is, we are all afraid of these agencies, and rather than attract the invidious attention of these concerns, prefer to hold our tongues unless the evil comes to our own door.'

"Another well known dealer, when questioned about the matter, said: 'It seems to me clear that the agency is liable for damages. I just had my attention called to a decision of the Supreme Court of Michigan in a case where a commercial

agency received a notice from one of its correspondents that a certain firm had given a chattel mortgage on their stock of goods to a bank in the city where the agency was situated, and advised caution in dealing with the firm. The manager of the agency knew there was no such bank in the city as the one named, yet he sent the notice to all his subscribers, and in addition advised prompt action on the part of the creditors, without waiting to find out the truth or falsity of his correspondent's report. The sending out of such a notice is libel, and from the circumstances surrounding the case express malice may be inferred, for the rule is if one makes it his business to look into the affairs of another in order to make money out of his investigations, he must see to it that he communicates nothing that is false.'

"A Beekman street paper man said: 'As I understand it, no mercantile agency guarantees its reports, and you are supposed to know this upon becoming a subscriber. A merchant seldom allows himself to be governed solely by the information that they have to give, and he would be foolish if he did. They are supposed to present as authentic a report to us as they themselves can procure, and if we accept it as such we do so at our own risk. If suit could be brought against mercantile agencies for the mistaken statements they have offered, there is not an agency that would continue in the business. Every agency would be overwhelmed with suits. They would be compelled to give up. As to whether or no they will be held responsible for the misdeeds of their agents remains to be seen. If I had a salesman do wrong toward my customers, or in any way commit such an act while representing me, I should feel that I was very much involved in any trouble that resulted. If a mercantile agency should in any report relating to me make a false statement that would injure my credit, I would positively undertake to gain redress, and if on the other hand they should rate me higher than I de-

served, I would not expect others to be influenced by what they said.'

"'I would not pass any opinion upon the case,' said another acknowledged leader, 'other than that if the agent is found to be guilty, I think the agency that accepted his report and issued it is responsible. Law is a queer thing. My experience has taught me that.'

"Said another: 'A man should not act upon the reports of these agencies without exercising his own judgment and taking means to verify them through reference to firms with which the party has had dealings. I have received four letters this morning inquiring as to the character and business reputation of men we have had dealings with. I am obliged to be exceedingly careful in answering them, for if I should reply that a man is good for so many thousands, and it should turn out otherwise, I would be held accountable. These letters I answer by saying how the man in question has met his business requirements in dealing with us. That relieves me of all responsibility in the matter.' "

CHAPTER IV.

THE ANALYSIS OF THE ELEMENTS OF BUSINESS.

§509. Nature of business.
- 1. The degree of risk.
- 2. Seasonable goods.
- 3. Convertibility.
- 4. Terms of sale.

510. Location of business.
- 1. How it affects the risk.
- 2. Manufacturing district.
- 3. Mining region.
- 4. Farming district.
- 5. In large cities.
- 6. Small towns.
- 7. Proximity to the markets.
- 8. New states and territories.

511. Honesty.
- 1. Prevalence of honesty.
- 2. Honesty means success—happiness.
- 3. Looking out for the man at the other end.
- 4. Honesty the best policy.
- 5. A cheated customer seldom returns.
- 6. The credit system rests on honesty.
- 7. Credit giving.

512. Experience.
- 1. Repetition begets skill.
- 2. What is experience?
- 3. The farmer grocer.
- 4. Experience and capital.
- 5. Credit giving.

§513. Ability.
- 1. Ability defined.
- 2. Cultivating ability.
- 3. Jack-of-all-trades—specialists.
- 4. Judging human nature
- 5. Some suggestions.
- 6. Speculative ventures.

514. Industry.
- 1. Necessary to success.
- 2. Calhoun's example.
- 3. Vanderbilt's start in life.
- 4. The worker and the idler.
- 5. Credit giving.

515. Character and habits.
- 1. Habits, character and reputation.
- 2. How character affects a credit risk.
- 3. Same.
- 4. The liquor habit—sports, etc.
- 5. How "shady" characters get credit.

516. Business education.
- 1. Commerce is the business of the world.
- 2. Importance of a proper business training.
- 3. Business education is necessary to success in all the walks of life.
- 4. Education is the means of advancement.

§517. Punctuality.
1. Punctuality, confidence and the credit system.
2. Appointment is a contract —the man behind time.
3. Wise use of time.
4. The trait was possessed by all great men.
5. Punctuality as applied to credit giving — teaching the "slow one" to be on time.

518. Antecedents.
1. Indicative of business qualifications.
2. How past failure affects future success.
3. Same.

519. Competition.
1. New business communities.
2. Competition is the life of trade.
3. Regulating profits—trusts and corners.
4. Business secrets.
5. Competition as a factor in credit giving.

520. Married or single.
1. How social relations affect confidence— indifference of single men.
2. "Are you married?"
3. Difference in conditions causes different ambitions.

521. Economy.
1. Economy is necessary to success.
2. The savers and the spendthrifts — the object of business.
3. How the dealer uses the property for which he owes.
4. Only the economical are ultimately successful.
5. Wants increase faster than income.

§522. Age.
1. Energy and push decrease with age.
2. Probability of getting our money in case of failure.
3. Extreme youth.

523. Capital.
1. Only money pays bills.
2. How much capital?
3. Set up in business by relatives.
4. Capital a gift.
5. Capital the savings of past labor.

524. Volume of business in proportion to capital.
1. Doing business on a large scale.
2. Greed for gain.
3. Panics — the prominent commercial crises of the last century—the cause of panics.
4. Safety—credit giving.

525. Assets—real estate.
1. Incumbrances.
2. Notice of mortgages.
3. Exemptions.

526. Assets—accounts and bills receivable.
1. Shrinkage—per cent. realized.
2. Paying interest on past due accounts — past due accounts tie up capital.
3. Proportion of capital to accounts—turning capital.

527. Assets—personal property and stock.
1. Disposition and shrinkage.
2. Per cent. realized.
3. Manufacturing plant.

528. Liabilities.
1. Proportion of capital to liabilities—the bargains.
2. Worry — turning another corner—general rule.

§529. Insurance.
1. A good business man's motto.
2. It is the duty of every debtor to insure.
530. Partnerships.
1. Good associates—are the partners producers?
2. Drain for family expenses.
531. Productive or non-productive.
532 Corporation and joint stock companies.
1. Advantages of large corporations.
2. Non-liability of shareholders.
3. Small corporations and the reasons why formed.
4. Bona fide firms and credit giving.
§533. Chattel mortgages.
1. Reporting chattel mortgages.
2. Difference between a judgment and a mortgage.
534. Various kinds of dealers.
1. Recklessness
2. The live-and-let-live buyer.
3. The "crank"—how he is handled.
4. Begging for credit—unsolicited orders.
535. Doubtful credits.
1. The risk of doubtful cases.
2. Mr. Earling's remarks.

We have discussed only the mercantile agency so far, but, as already hinted, business men do not rely entirely on these for information. Statements and reports are obtained from various sources, frequently from the applicant himself. The object of these statements is, of course, to gain such information as to enable us to ascertain whether or not a dealer is entitled to credit, and if so, to what extent. But now the question is: What class of information will enable us to arrive at an intelligent and, therefore, a safe conclusion? Now if we apply the rules of analysis to business, we find that it is resolvable into certain elements, and that its success, and our safety as debtors, is determined very largely by the existence and proper combination of these conditions or elements. One of these elements is industry; one is capital; one, experience; one, ability; and so on, and we find that it is important to have information on all of these. Some of these conditions are of more importance than others, but each is an important factor. Now each of these requisites or elements is susceptible of individual analysis, and the rest of this chapter is devoted

to this individual analysis, after which we shall apply them to reports and endeavor to show how a safe conclusion may be reached.

§ 509. **Nature of Business.** *First.* The degree of risk is not the same in all lines of business. In fact, one line of business may be much more hazardous than another. We may take for example a clothing store and a hardware store. Both are perfectly legitimate, and both are generally considered safe. But in a clothing store there are inevitable losses from old styles, old and shelf worn goods, seasonable goods to be carried over, etc., while losses of this kind in a hardware business seldom occur. This gives the hardware trade quite an advantage over those that have more or less shrinkage. And, so far as the nature of business is concerned, we would call the hardware business perfectly safe, and if in fairly competent hands it will do well, and we may dismiss the subject so far as this part of our report is concerned.

Second. But different lines of business are subject to different kinds of ills, and these must be determined before any intelligent decision can be reached. Staple goods that move every day are necessarily safer than seasonable goods, which move only during their particular season. A stock of toys, picture and gift books, fireworks and the like, is much more hazardous than goods which sell every month in the year, and we find correspondingly more failures. In all lines of trade there must be some seasonable goods, which by an unpropitious season or other causes preventing sales during the short time when such goods are in demand, has brought many a business house into bankruptcy.

Third. Convertibility, in the case of failure, is one of the things which should be considered in connection with the nature of business. For instance, a grocer's stock is easily converted; but the city grocer's business is subject to so heavy expense, and he must make so many bad debts, that it requires good business management to succeed.

We do not wish to discuss, pro and con, all lines of business, but the credit-man should satisfy himself regarding the nature of business before giving credit favors.

Fourth. Another important point is the establishment, by different lines of trade, of its own terms. These are for cash in one line, short time in another, and long time in another, and these terms are recognized by the trade. Deviations are seldom made. Thus we see that breadstuffs—articles of absolute necessity—are sold nearest a cash basis. From this starting point we find that as articles of commerce become less necessary to the community, the terms of sale lengthen out in proportion. Sometimes we find that a cutting down of profits will result in a proportional shortening of the terms of sale. These rules are in conformity with the laws of commerce. The less the profit, the less risk that can be taken, and the terms are shortened accordingly. The shorter the term of credit the less the risk. A cash business attracts men who can pay cash; but a business giving long time is patronized by those who cannot pay, but who speculate on future developments, which may or may not transpire. The longer the time the greater opportunity for future speculation and therefore the greater the risk.

§ 510. **Location of Business.** *First.* The location of the business is quite an important factor in considering credits; and it determines largely the success of the applicant and therefore the degree of risk to be incurred. In some localities the merchant's success depends largely on some one industry which may be the means of support to the surrounding community.

Second. In manufacturing localities, the merchant depends for patronage almost entirely on the employes of the mills or factories. He must also trust out his goods from one pay day to the next, and the conditions are not such as to warrant the stability of the dealer, nor make his chances of paying his debt the very best. In the case of lock-outs, strikes

and riots, the dealer may be left without customers, or still be compelled to carry those he has already, perhaps, carried beyond the point of safety. During the recent strike at Homestead, Pa., many of the business men failed. These merchants had already many bad accounts on their books, and when their customers were unable to pay, it was impossible to survive and bankruptcy was the inevitable result. This is a fair exemplification of our position.

Third. In the mining regions the trade is large and usually profitable while it lasts. High wages are paid and when money comes easy it usually goes easy. People spend freely and trade thrives so long as the mines are in operation, but a mining town may be said to be nomadic, for what was a thriving town of ten thousand people a year ago may be a deserted region today. A new mine is opened and people flock in and build up a town in a few weeks; after a time the mine is closed for some cause and the people depart to other quarters. Even the older mines are closed occasionally, and in a few weeks the place is depopulated. Mining towns take on the character and vicissitudes of Nijni-Novgorod, that great periodical commercial mart of the inland trade of Russia.

All these changes and interruptions play an important part in the matter of credit giving. If the dealer is a shrewd business man his trade is as safe as in any locality, for he will push his business while it lasts, and retire before the crash comes. And if he is on the alert he will be able to see signs of the coming collapse.

Fourth. In a locality where farming is the chief pursuit of the people, credit may be extended almost to the extent of the customer's requests. We have to depend on the customers' ability and honesty more than on any characteristics of locality. There may be a partial failure of crops, or prices may be low and some extensions of time necessary, but a farming community is the most propitious locality that can be selected.

Fifth. A large city surrounded by a vast section of country, with different interests and industries tributary to it, and all the immense population engaged in almost every trade, profession and industry, may be said to be an exceptionally favorable location for the retail dealer. He need not depend for his patronage on any one industry, for he finds within the limits of his city, demand and supply for almost every item of merchandise in which he might desire to deal.

There is, however, one serious drawback to annoy city dealers—and especially is this true of new firms—viz., the close competition that is to be found here. If a dealer can get a good line of customers at the start he is all right, but otherwise he will have a hard fight.

Sixth. Customers located in small places are not easily reached for collection purposes and this is to be duly considered. A town may have neither a lawyer nor a bank and this places the creditor in a trying position. Many men would pay a draft presented by a bank, when they would take no notice of a request sent by mail. If there be no bank, and a lawyer from some other town must be sent to collect an outstanding obligation, such expense will soon eat up the profits and much of the capital.

Seventh. Another point that should be duly considered is the proximity of the dealer to the market. A retailer may do a large business on a comparatively small capital if he is located in a large city or in easy access to the markets. He is not compelled to carry a large stock of goods, but may buy each day for his day's sales, and thus make the jobber answer the purpose of a warehouse.

But it is entirely different with the merchant who is far removed from the markets. He is required to carry stock enough to last him from one to five or six months, owing to distance and facilities for travel and transportation. With a small capital the city dealer can put in a large assortment, which for the other would require a much larger capital when

we consider the increased quantity. No one will doubt, that to do a certain amount of business it requires the use of a much larger capital in one locality than in another, and the risk is correspondingly greater.

Eighth. In newer states and territories the law lends a great deal of protection to the inhabitants in the matter of exemptions from debt. This is done, presumably, to encourage newcomers to settle down and accumulate property, and develop the resources of the state. While this is all right, and just, yet the creditor class should be apprised of the fact so as not to become involved unnecessarily. As an example of these exemptions from execution we find that the laws of one western state exempt nearly all the property possessed by a man even in good circumstances, and includes 200 acres of land, in the county, with improvements to the value of $5,000 *at the time of being designated as a homestead.* The property is still exempt, notwithstanding that subsequent improvements may have increased its value to a hundred thousand or more. Property in the city is held in about the same way. If the city property is not valued at more than $5,000 when designated as a homestead, notwithstanding subsequent permanent improvements, it is exempt from execution. Furniture, implements, tools, books, five cows and their calves, two yoke cattle, two horses, wagon, carriage, twenty hogs, twenty sheep, provisions and numerous other articles are exempt. Other states exempt personal and miscellaneous property to the value of $1,500 to $2,000 of the debtor's own choosing.

In cases of this kind the creditor cannot look to the capital of a small business for his pay, but must rely wholly on the debtor's honesty and reputation for fair dealing.

§ 511. **Honesty.** *First.* To conform to the civil law is all that the business code requires. That is, business is governed by the civil law, and when a man pays his obligations dollar for dollar, we must call him honest. As a general

thing we find that most men engaged in business, from one cause or another, are honest. But honesty is one of the innate qualities of man and is developed along with his other virtues. And then honesty finds remuneration. There is always reward for honesty and punishment for dishonesty. If we reflect on the vast amount of money daily intrusted to persons whose earnings barely amount to a living, and note how few cases of theft occur amidst all these temptations, we cannot deny that the honesty of such men is most commendable. Without honesty there would be little credit given, for the whole system of credits is based on confidence in the honor and honesty of the debtor.

Second. Although honestly generally prevails, yet there are still too many instances of fraud and dishonesty practiced by the wiry, unscrupulous and selfish, whose whole aim seems to be to get the almighty dollar—honorably if they can, but dishonorably if they must. There are tradesmen who adulterate and cheat; they give us shoddy for wool, iron tools for steel, and cheat in every way they can. But gains made in this way can never bring that which produces happiness—a satisfied conscience. And many men who have been rogues turn honest for no other reason than to relieve their conscience of that which will not permit them to sleep, or enjoy a moment's happiness.

But a man who becomes honest to relieve his conscience or to escape misery and punishment, or the one who practices honesty because he believes that honesty means financial success, and the reverse ruin and failure, cannot be said to be honest in the broad, true sense. Still if these things induce men who are dishonest at heart, or even indifferent to honesty, to be honest in practice, society will gain much. If they cannot be honest because it is right, let them be honest because it is the best policy.

Third. In an address before the New York Institute of Accounts, March 15, 1892, Mr. S. S. Packard advised business

men to look out for the man at the other end of the bargain; to see to it that the other man did not get cheated, not so much for the other man's welfare as for the promotion of their own life's happiness. There comes a time when one will live mostly on the memories of the past, and each one should so live as to make that age of life the happiest of all. Mr. Packard gave as an illustration an account of the work of one of his students who had succeeded beyond expectation. When Mr. Packard asked him for the secret of his success he answered: "Nothing is plainer, nothing easier. You may not remember, but I do, the little lecture that you used to give us boys concerning our future work. On one occasion you made a remarkable statement, which at the time I could not quite comprehend, simply because it was the reversal of all the theories which had come to me from other sources. You said: 'One thing, boys, you must remember, that in the matter of a bargain the question is not whether you shall be cheated, but whether the other man shall be. In short,' you said, 'make it the rule of your business life to look out for the man at the other end of the bargain.'

"It was a new doctrine to me, but I said to myself, 'If I ever get into business I will try to carry out that theory'; and, strange as it may seem to you, I have done so as well as I could during my whole business career.

"At first it was a sort of sentiment, but after that it was purely business, for I discovered a meaning in it which I very much doubt if you yourself had fully comprehended. I started in a special line of trade, and developed an article of common use to such an extent that I could undersell most dealers, and soon made it to the interest of large concerns to purchase directly of me. My first effort to carry out your rule was to acquaint myself with the selling market of my customer, and to recommend to him only those goods that he could readily dispose of, so that he could get quick returns and come back to me for more. Beyond this, by special inquiry, I as-

certained the peculiar wants of particular neighborhoods and different localities, and aimed to supply these wants.

"Again, I made it a rule in my business to take back goods that were unsalable, and supply their place with salable goods. The result has been that during the fifteen years in which I have been engaged in business I have never lost a customer, and nearly all my customers trust greatly to my judgment as to the quality of wares they had better purchase. I have been unusually prosperous in business, and many persons have wondered at my success, but I can say to you honestly that my success has come largely from adopting your principle of 'looking out for the other man.'"

Fourth. Shakespeare makes Hamlet say: "Ay, sir, to be honest, as the world goes, is to be one man picked out of two thousand." He, of course, had reference to strict moral honesty. But that business honesty is at such a discount cannot be considered for a moment, even by those who seem to imagine that the world is growing more wicked every day, and that we are fast approaching destruction. Do you believe it? Who are the rogues? They must be you and your neighbors.

No, business honesty is at a high premium, and it is the greater wonder that there is so much honesty in the world as there is. We say that "honesty is the best policy," and we mean that it brings wealth and happiness. Even the dishonest man believes it, and has probably been brought to the conclusion by observation and comparison. The old merchant's farewell advice to the young man was timely: "My son, let me repeat to you that honesty is the best policy. I have tried both ways, and I know." But, as Mr. Packard said, "honesty is not only the best policy, but the only policy." Men should do right because it is right, not for policy's sake.

Fifth. A merchant who has his mark in the world yet to make, cannot by any force of reasoning, afford to be dishonest. A customer who is deceived in an article purchased, be

its value ever so little, will rarely come again. It is not so much the value lost, as it is the idea of being cheated by willful misrepresentation; a man who misrepresents one article cannot be depended upon to act fairly in any trade. If men could engage in business today and by a system of dishonesty retire with a competency tomorrow, no doubt many who are trying to get an honest livelihood by hard struggling would be too weak to withstand the temptation. But men cannot do this, and after a man has through honest means, attained a competency, there is no longer any motive for dishonest acts, for now he values the good opinion of his neighbor as much as he does the money of this same man.

"All good men love the approval of the good, and all bad men are held in check in fear of the good man's reproach."[a]

This principle holds out the argument that it is natural for men to lean toward honesty and uprightness and not toward knavery.

Sixth. "Integrity," says Earling, "is the rock on which the vast commercial interests of the world are resting for their foundation. Annihilate that, and in the train of its destruction will follow civilization and all the benefits arising out of it. Without faith and confidence in each other's honesty there can be no credit, and without credit very little business.

"To be honest, to do your duty toward yourself and your neighbor, is not a specially meritorious act. An obligation or a duty is discharged with its conscientious performance, and that simply ends it as it ought to end. But the failure to perform the duty, the act of being dishonest, for this there can be no excuse either on moral or business grounds."

Seventh. If a man asking for credit favors cannot produce a proper showing for honesty and fair dealing with his customers, let him seek elsewhere for credit. If he be not honest with his own customers, on whom he depends for patronage, he cannot be expected to care much for his creditors. There

[a] Lyman Gage, of Chicago.

is no assurance that a dishonest man will ultimately succeed, and the risk is great from this point of view. You cannot afford to trust him. Besides there is quite enough risk in selling on promise of future payment, without incurring unnecessary or extra hazards.

§ 512. **Experience.** *First.* "Repetition begets skill." It is by doing a thing over and over again that we learn to do it well. Familiarity may breed contempt, and we may look on life as a drudgery, but skill comes from familiarity and even drudgery. After a young man has accepted, with all its honors, the presidency of a country lyceum club, and properly presided over several of its meetings, he is not competent to preside over the House of Representatives. Nor is a young person who takes a course in bookkeeping, under the best instructor, in any sense a practical bookkeeper, much less an accountant. It takes skill to do skilled work, and skill is the result of doing a thing many times, until it becomes familiar. A man does a thing over and over for ten years and we say "he has experience, he is an experienced workman." Men build ships, or houses, or they manufacture cloth, or construct railroads, or sell goods, or keep accounts, all their lives, and they command good pay because they do good work. Experience has come to be one of the necessaries to success in any calling, and it is always a matter of speculation how an inexperienced man will come out in a new undertaking.

Second. "The aggregate knowledge," says Mr. Earling, "that has been acquired by personal observation and actual trials, is called experience. The kind of experience we are looking for is of a specific character and confined to some one branch of business, and there is no department of trade to-day that does not offer sufficient scope to monopolize all a man's time and attention. The more difficult any business or profession is to learn, the fewer will be the competitors to invade it, and herein lies our compensation for its mastery."

There are many phases to every line of business, and that

knowledge which comes by "actual trials" enables us to foresee and provide for the ups and downs of trade; we are able to control circumstances, and thereby the safety of our enterprise. This the inexperienced cannot do, and failure often results before the requisite knowledge is obtained.

Third. He was an old farmer, and had, by hard work and attention to details, accumulated quite a little sum of money. He concluded that the remaining days of his life should be spent in comparative ease, and so he rented his farm for the season, and, taking his family, he came to Des Moines. Here he invested nearly the whole of his ready money—which to him represented the net profit of years of hard labor—in a stock of groceries. In a few days he had a room rented and opened for business. I passed his place several times every day, and soon concluded that he had few customers and that his trade did not seem to increase. One day I thought, to help the old man out, I would make a few purchases. He was exceedingly awkward in doing up the simplest kind of a package, and when he came to wrap up some butter for me he smeared and mussed it up so with his fingers and a dirty butter knife that I had no relish for butter for some days. I did not help the old man out again; others must have been no better pleased, for after about nine months his "farm money" had disappeared, and, selling what stock he had left for a mere trifle, he moved back on the farm to pursue a calling in which he had already accumulated a wealth of experience.

Such men can ill be spared from the farm, where they are able to succeed, but as merchants they can be spared, and usually are after a short but costly trial. The creditor calculates on how long the money will last, and gives credit accordingly.

Fourth. A man possessed of capital and experience is able to push along, mounting every obstacle, warding off every danger, and consequently enjoying the greatest possible suc-

cess. By his capital he is able to increase and strengthen his enterprise, and by his experience he commands the respect and patronage of the people. No exigency disheartens him, for he has traveled the same road many times before and knows where every pit-fall and danger lies, and is able to avoid them with perfect composure.

If he possessed the experience alone, he would be able to command capital, for those who have capital must depend for its productiveness on those who possess experience. Experienced men can always command capital, and millions of dollars are intrusted to men whose experience in managing large corporations and enterprises is the only guarantee that the money will be properly invested. Capital without experience could never produce the great enterprises of this country, and we owe as much to one as to the other.

Fifth. In extending credit accommodations the matter of experience should have as much weight in the consideration as any other element. In this day and age of the world, when men are specialists and competition is close, the inexperienced have but few chances of success.

§ 513. **Ability.** *First.* Lever says: "No matter how skillful a man plays the game of life, there is but one test of his ability—did he win?" Ability is the power which we possess of accomplishing what we undertake. It is the sum total of the qualities that go to make up a successful business career. It is the power to know how to judge of people and things by what we ourselves are; or rather, the power to apply what we know to practical purposes.

Second. A man may have a special liking for one calling and by cultivation may gain that ability which brings ultimate success—for a man's ability is judged, not by beginnings, but by accomplishments. And ability is the result of proper training. But men enter business without any preparatory education, and not knowing whether they are fitted for such work or not. It is no wonder that so many of our merchants

fail when business is in the hands of incompetent men, who seem to think that any one can be a merchant withont any qualifications or training. Farmers, nor teachers, nor lawyers would make good merchants; nor would merchants or manufacturers make good doctors or editors. Skill does not come by birth, nor is it acquired in a few weeks. A man cannot succeed in anything if he changes vocations every six months. He must select his work and apply his life to its furtherance, or use this work as a stepping stone to something higher.

Third. A "jack-of-all-trades and master of none," is the one who not only changes his calling often, but tries to master many callings, and ply them all at the same time. I knew one. He was a carpenter, a wagon maker, a painter, an engineer, a farmer, an elocutionist. He could clean a watch and put it together again and it would still keep time. He had a fairly good violin which he made without help, and on which he performed with a fair degree of skill. He could play on almost any kind of a musical instrument—and if there was anything which he could not do, I never found it out. But he could do nothing exceptionally well; his ability and energy, if they had been directed in some certain line, would have produced unusual success, but doing everything, he did nothing, and remained a poor man. He is dead now and I forgive him.

To choose a calling is one of the most important steps of a young man's life. It has the greatest bearing on his future destiny. And a good rule for a young man to remember is that a man does what he can, not what he would like to do.

Fourth. A man's ability is severely tested in choosing men to assist him in his work. To be able to judge of men and character, and surround oneself with the proper kind of employes and partners, has been a great help to many men who have materially aided in advancing commerce and trade, and at the same time accumulated a competency. Any one may, by study and comparison, acquire the trait of judging human

nature. And this quality is as essential to the business man as to the teacher. No two men are alike, and they cannot be approached in the same way. Things may be said to one that would not be tolerated by another, and the man who does not know just how to approach such men, works at a great disadvantage.

Fifth. Ability to judge of the value of goods is essential to a successful merchant. Profits on sales depend very largely on the ability shown in making purchases. Judicious buying is necessary to success, and this results from a thorough knowledge of values.

A merchant should study the needs of his customers and buy accordingly.

He should have an abundance of good nature and treat his customers as if they were as good—or better—than he. And above all, he should treat all alike. The poor receive as much kindly attention at the hands of the good merchant as the rich. Why not? Their money is as good as the rich man's, and the profit is quite as great, besides there are more poor than rich men.

He should have the same price for all customers. If he asks one price and accepts another, his patrons will never know when they are fairly dealt with, and so will buy with great caution.

He should be quick to discriminate. The greatest questions of life are to be decided on the impulse of the moment. It is only the minor affairs which give us time to contemplate.

He should save a part of his profits. Reverses may come and he must have some accumulations to draw on. Old age is coming on and he cannot work until the end comes.

Another trait which a good merchant must have is the willingness to attend to details. Life is made up of little things, and he who neglects them, neglects everything. "What use is a child? It may become a man." So little things grow and help make up the sum total of success.

Sixth. A dealer must ply his business with all his energies and let other people attend to outside matters. If he accumulates more money than he needs for immediate use, he should place it in some safe investment. He will have many chances to invest it in speculative ventures promising great rewards for small investments, but he must know that all must render an equivalent for the things gotten in this world, and that the most glittering money-making schemes are fraudulent. When a man says he will give you $5 for $1, he is going to cheat you in some way even out of the dollar.

A merchant should not get into financial complications that his business will not justify. All his obligations should be based on certainty, so far at least as a prudent man may judge.

§ 514. **Industry.** *First.* Mr. Earling aptly says: "A man may be possessed of good ability and otherwise excellent qualities, but if he lacks application and industry his chances of success will be very precarious, and this holds good, especially in mercantile life. In no occupation are indefatigable energy and close attention so indispensable to success as that of the merchant, and if he is not willing, in this age of competition and push, to devote himself assiduously and energetically to his calling, he can hardly hope to accomplish great results."

To be a successful merchant means more than to buy a stock of goods and rent a store room. It is not a life of ease. It means hard work from morning until night, every day in the year, and while his assistants do a great deal of the work yet he must be present during business hours, and personally superintend the work. If he is irregular in his work and lets important demands go without attention, he may expect to see his help follow his own example. If the head of the business is negligent and inattentive, the clerks and assistants will not render that service which is necessary to success. Bad qualities are contagious, so are good ones, but in a less degree. The proprietor must give his personal attention to the busi-

ness to keep up the proper spirit, and to infuse life and energy into every department of the work, and thus secure the greatest amount of well directed effort on the part of every one connected with the establishment.

Second. Without application, industry and unrequiting toil there can be no success. When we review the lives of all the men who have won fame or fortune we find, without an exception, that they were all workers. Not merely that they worked along in a cursory way, but that they were men whose lives were spent in never ceasing toil. Work was the motto of their lives. It is the solution to the great problem of success. Application! When John C. Calhoun was ridiculed by his fellow students, at Yale, for his intense application to his studies, he replied, amidst loud laughter, "I am forced to make the most of my time that I may acquit myself creditably when in Congress." When the laughing had ceased he added, "I assure you, if I were not satisfied of my ability to be in Congress in three years, I would at once leave college." And he was not disappointed. Calhoun knew that it was only by constant application and industry that he could reach the goal of his ambition.

Third. As an example of the satisfactory results of industry we have but to take the life of any great man. Could Blaine have reached the eminence to which he has ascended if he had idled his life away, or even worked with ordinary application? Would Pullman, starting at the age of eighteen in a small furniture store with a still smaller salary, have amassed such a fortune had it not been for his untiring industry? If you know a successful man, you know a worker. No idle man can reach success. Success is at the top and those who climb for it must never stop on the way, lest they slip back again so that others get ahead of them.

Cornelius Vanderbilt started on his business life by ferrying across the Hudson river between New York and Jersey City. His outfit consisted of a small row boat, but he plied

his vocation with an energy that at once won for him a large patronage. He began before day and worked till after dark and often all night. He made out a scheduled time card, which he posted near his landing, and he was always on time, and no matter what the condition of the weather his patrons knew that Vanderbilt would be there. He soon had the cream of the boating business, though he had more than forty competitors. He had no vices, and saved in a few years enough money to buy a larger boat and go into business on a much larger scale. But he had also gained two other things which he never relinquished—a perfect knowledge of his business and habits of industry and self-control. By his habits of economy, his indefatigable industry and his energy, he soon owned several vessels, one of which he equipped to sail between New York and Philadelphia. He then took to railroading, and his successes are known to every school boy.

To cite all the notable instances of success resulting from application and industry, we would have to name all the men who have achieved distinction in the various walks of life,—in art, literature, science, commerce, and the professions.

Fourth. Our best education is that which we give ourselves, and this is obtained through industry. A steady application to work is the best training that a young person can have. Industry is the means of happiness and enjoyment. But who ever heard of a happy idler? The idle wander aimlessly through life and leave no trace of their existence; but the industrious stamp their character upon their age, and their influence for good extends to their posterity. Sam Smiles says: "Labor is the best test of the energies of men, and furnishes an admirable training for practical wisdom."

In a word, labor is the only means by which education, science, art or business can be attained. When David Porter, who by frugality, industry and application to business, had accumulated a fortune, was asked how he had succeeded, he answered, "By never having an idle hour or an idle guinea." That is the secret.

The fact that a man works hard does not necessarily mean that he is industrious. He may work for bread and butter because he cannot get it any other way. But a capacity and willingness to work, combined with the quality of application, is entirely different. It is directed toward the accomplishment of a purpose in life, and it looks to future benefits as well as present enjoyments. "Application means stick-to-itiveness, and trusting to the law of compensation for your reward."

Fifth. "Reports say 'attentive to business' or 'not attentive,' with more or less details on the subject, as the case may be. Inattention to one's business is inexcusable, and is sufficient cause for lack of confidence—in fact, no man is entitled to credit who neglects his own business."

The credit man should make a careful estimate regarding an applicant's qualities for industry and attention to business before extending many, or any, credit accommodations. No one, who may have money involved, can afford to ignore so important a factor.

§ 515. **Character and Habits.** *First.* The whole of man's character may be said to be included in the term "habits"; and it may be strengthened and supported by a proper cultivation of good habits. It has been said that man is a bundle of habits, and that habit is second nature. And Metastasio, the poet, was so convinced of the power of repetition that he said: "All is habit in mankind, even virtue itself."

Character is that innate, that latent power, which makes our talents trusted. It is human nature in its best form. We may admire a man of learning but we trust only those with character. Character creates confidence in men in all the walks of life. There is a vast difference between character and reputation. Character is what the man really is, but reputation is what the world believes him to be. Sometimes we must accept reputation for character, for while some men show their character by their every act, deed and look, yet

others do not. The line of demarcation is finely drawn and not easily determined. It is hard to say where good character leaves off and bad character begins. So many times we must accept reputation and run the chances of its reliability. A man's habits do not always indicate his character—in fact he may possess many good habits and still be, at heart, a veritable scoundrel.

Second. It an applicant for credit cannot produce a good showing as to character and fair dealing, we have no use for him, and cannot afford to accommodate him with credit favors. We could afford to trust a man possessed of good character and habits, though he be without capital, and still feel comparatively safe; but a man with capital, and even with ability, but without character and integrity, would be a person that few would care to trust.

The man must have an established record for honesty and fair dealing before he becomes a safe risk. Though by this we do not mean that he must be perfect in every way, for a man may have a proper record for fair dealing and still possess some very objectionable habits. We do not expect to find perfection, and many personal shortcomings and small vices must be overlooked from a business point of view; but the general reputation must be good. And especially can we overlook a few shortcomings in a man who has been established in trade for a long period, though closer attention should be given to this trait in a new comer. But in any case where a credit or trust is involved we cannot afford to ignore so important an element as that of character and habits.

Third. "In extending credit," says Earling, "the character and habits of the party asking it should be searchingly inquired into and all the facts ascertained. Our security as creditors depends on these factors more largely than on any other two. No applicant for credit is entitled to it unless his record for both honesty and sobriety is above reproach. The men of moderate ability and good character and habits are

the standbys in trade, but reversing this order, we are liable to reverse our fortunes if we make them our debtors."

Fourth. Experience teaches us that men addicted to the liquor habit are undesirable debtors. The habit of itself is not alone to blame, but the loss of time, inattention to business, and the unwarranted expense which is the direct result of such a habit, is the feature to which the credit man looks.

For the same resultant reason, a man who is a constant attendant at base ball games, races, and the various sports which may offer amusement to the public, is usually not a good credit risk. To succeed in business is to sacrifice pleasure, and especially that pleasure which comes from outside amusements. "Business before pleasure" has been said so often that few know its meaning. We hear the words, and that is all—there is no comprehension.

Fifth. "It is supposable that no sales are ever made without expectations of payment, and yet we find that men of all shades of character, and even 'shady characters,' constantly figure in the reported failures of the country. That somebody has taken stock in them is self-evident. If they did not owe anybody they would have no need or inducement to fail. The fact that they owe is *prima facie* evidence that their credit was good in some quarter, at least. The assumption can hardly hold good that the creditors of dubious characters in trade were cognizant of the fact of such dubiousness when selling to them. We must, therefore, charge this indiscriminate and lavish dispensation of credit, *not to a knowledge of the facts, but to negligence in obtaining them.* And this is where the weakness of most creditors lies. The time to inquire into character and habits, and other things necessary to be known, is when you make the credit, and if there is any doubt, take the benefit of it yourself."

§ 516. **Business Education.** *First.* In this country a great deal of time and money is spent on an education that is to train a man for the calling of law, medicine, or journalism:

while but little attention is given to the training for commerce. When we consider how much time is devoted to other callings to enable a young man to do active, intelligent work, and how little is supposed to be necessary to a proper training for business, we are forced to believe that there is something wrong with our appreciation of proper discipline.

Commerce is the business of the world, and there are more persons engaged in it than in all other callings combined. This is a significant fact. Why should we slight a proper training in a calling which furnishes a living to so great a multitude, and expend our school days in the pursuit of knowledge that can never be used in the affairs of life?

Second. There are young men in the world who really expect, without experience or practical preparation, to cope with their more intelligent neighbor for that much coveted jewel—success. But they will fail. Soldiers, taken in miscellaneous confusion from the plow, the loom, the workshop, and the schoolroom, cannot hope to battle in even advantage with veteran soldiers, whose lives have been devoted to military tactics and drill. Nor can men without preparation fight battles in the struggle of life successfully with those whose business training has fitted them for the duties which they are to perform. He who succeeds in the commercial race of to-day must be thoroughly trained for his work. He must think and act quickly, and must know not alone what is to be done, but how to do it. The business man has a right to expect that all who profess to be business men and wish to transact business with him, are perfectly familiar with all the laws, customs, usages and practices that govern the transaction of business. It is no part of his duty to explain the obligations into which the other man is entering, and he has neither time nor inclination to do such a thing. It is every man's duty—and his necessity—to properly inform himself regarding the intricacies of his calling before entering it for service. It is the mission of business education to properly train young men

and women for the intelligent performance of the duties of an active life in the marts of trade.

Third. Every successful man must have a good practical education, and every eminent man, no matter what his calling, must be a good business man.

The successful farmer is always a good business man. Many farmers who work hard and raise a good crop make little out of it, because of the lack of business ability to properly dispose of it.

The best minister, and the one that not only gets the largest salary but preaches to the largest audiences, is the one who has a good business training and uses his business knowledge in his work. His sermons are practical sermons and they are therefore forcible and convincing.

The eminent lawyers, and judges, and statesmen are all good business men, and whether they ever took a special course in business education or not, they possess a practical training that is at once thorough and useful.

And so it is through all the callings of life. There are few persons, indeed, who do not transact some kind of business almost every day, and for this reason a business training ought to be a part of the education of every man and woman.

Fourth. Commercial supremacy is the great question of the day. The growth and advancement of commercial relations, and the development of our natural resources, and the facilities for exchanging products is the great problem. And how are these to be solved? By education! There is no other answer. And considering how great is the question of trade, and how sharp the competition, we may easily see that our natural abilities must be strengthened by thorough drill in the laws and the usages of commerce.

The would-be debtor either has or has not the necessary preparatory training to enable him to succeed, and this should not escape the consideration of the would-be credit man.

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§ 517. **Punctuality.** *First.* Some one has said that punctuality is the politeness of kings, the duty of gentlemen, and the necessity of business men. Lack of punctuality destroys confidence in an individual, and produces distrust and even contempt; while a practice of this virtue has been the means to the success of many a man. The whole structure of the credit system rests on confidence of man in man, without which there could be no such thing as credit. The savage must see what he trades for, he does not trust to anyone's word. He sees what he gets and there is no confidence. But as the human race advances toward civilization we find confidence increasing, and the growth of trade and commerce keeping pace. The liberality with which in this day we give credit, and the great confidence in the buyer's promise to pay that is everywhere exhibited, is only another proof of our greater civilization.

But not only does the credit system rest on confidence, but confidence rests in turn upon punctuality. If a man lies or deceives you, or makes promises which he neither fulfills nor explains, there can be no confidence.

Second. Again, if a man is prompt in fulfilling his engagements, and does not keep you waiting, he shows that he has some regard for your time as well as his own. and thus we have the means of ascertaining another's respect for us and our affairs as well as for his own honesty. For an appointment is a contract and he who breaks his word and acts dishonestly in one thing, no matter how small, is not the one to be trusted in greater affairs. He that is careless about his time will not be attentive to his business, and is not, therefore, the person to be trusted with our goods.

This man who is forever behind time and robbing men of valuable time is a "general disturber of others' peace and serenity." He does everything out of time and gets every one out of humor. "But it will generally be found that the men who are habitually behind time, are as habitually behind suc-

cess," and those who have courage enough to trust them do so at their peril.

But the man behind time would make you believe he is rushed to death with work—that he has not had time to breathe for weeks and weeks, and now he cannot see out of his work—and so he rants about his own business, (which he ought to keep under his own lock and key), until he is late at his next appointment, and until you are disgusted with his staying-qualities. Yet it is a wonder how much can be accomplished by a methodical arrangement of time. The best merchant does his work at the proper time and while he gets vastly more done, he likewise seems to have more spare time than the irregular man.

Third. Men say that time is money, but it is more; it is life itself, for that is the stuff life is made of. He who has no regard for his own time, much less that of others, has not yet learned the first principle of business. The idler is a prey to his own mind; he is ever on the lookout for filthy habits and low manners; he is ready to catch at straws of uselessness, but his mind seldom, or never, turns to mutual improvement. In fact his mind gradually deteriorates until he is an easy victim for the devil, and swallows even the naked hook.

There is much wisdom in Lord Chesterfield's advice to his son in regard to time: "Every moment you now lose is so much character and advantage lost; as, on the other hand, every moment you now employ usefully is so much time wisely laid out at prodigious interest." Time is neither gold nor bonds, but it is as valuable as either, and he who willfully wastes time is not a proper person to trust with our goods, for he has not demonstrated that he can take care of his own. Such a man is on the sure road to failure.

Fourth. Punctuality is a debt which every man owes. Let him faithfully discharge the obligation. Punctuality is honesty; honesty is truthfulness; truthfulness is character.

If you have not punctuality you have not the best of business qualifications. A tardy man deserves the same consideration as a dishonest one, and a dishonest one makes an undesirable debtor. Lord Nelson once said: "I owe all my success in life to having been always a quarter of an hour before my time." But it is so with all great men. This trait was possessed by and forcibly demonstrated in them all. No great man was ever known to be without this quality fully developed. It is the way great men are made.

Fifth. In treating of punctuality in connection with credits, it is doubtful if there is any other quality "that exerts so great an influence on the affairs of commerce." If we were all punctual to perform our obligations as we agree, whether to pay a debt or "fulfill a contract, much of our tribulation and distress, and most of our failures, would be avoided. If you sell a man goods on sixty days' time, you calculate on receiving payment at maturity of the account, and you have a right to expect and demand it. His failure to keep his promise is liable to cause your failure to keep yours. Being behind time is often as ruinous to the creditor as being made the victim of bare-faced fraud."

In extending credit, we should ascertain the applicant's reputation for punctuality, and if this record is not, at least, up to the average, we will do well to keep our goods for other buyers. Some men are "slow pay" by habit, and while good business men ought to teach them to "come to time," yet if all other conditions are favorable we are still justified in accommodating them. "We can make them prompt with us if we start out to do it, and do it we should by all means." If we teach a man to be punctual, we have rendered him a great service and helped him advance his interests. So these "slow ones" may be made to advance with the advancement of the age; but should one, who has always been prompt in meeting his obligations, suddenly begin to fall behind and sacrifice his established record, we may be sure that there is something wrong, and we should begin to be on the alert.

§ 518. **Antecedents.** *First.* A careful consideration of a man's antecedents will very accurately indicate his record for honesty, ability, experience, and punctuality. We here get important facts and ideas regarding his good and bad qualities that enable us to more intelligently make an estimate of his responsibility as a debtor.

In looking up a man's record, we naturally wish to know how long he has been in business, and what success he has had during that time. The time for men to do their most successful work, and become rich, is limited to possibly twenty-five or thirty years. The time is short—too short for most men—and it takes ambition and energy to accomplish it. But as getting rich—especially getting rich in haste—is a characteristic of our people, so a man ought to show signs of success after he has been in business a very few years.

Second. That a man has once failed in business is, of itself, of no consequence, But in case of past failure the reasons which led up to it should be ascertained. A man may come out of a wreck perfectly honest, and better prepared to succeed, owing to his experience, than he was before. "Force of circumstances, joined to a little inexperience and imprudence, may have resulted in his bankruptcy; but in a case of this kind, where the integrity of the party has been kept inviolate, the business community is ever ready to overlook past mistakes and bestow upon him its confidence in the future. But the case must be a clear one, and his integrity must stand out uncompromisingly; it must be 'net and no discount.'" If everything seems to indicate a final recovery, we may be justified in extending our favors.

But if the failure was the result of poor business methods, inattention to business, dishonesty, or any wilful breach of business principles, he can claim no right to our confidence, and we must refuse him any help in the way of credit.

A lack of proper training and experience is the cause of many of the failures reported each week by the mercantile

agencies, and where this is the real cause the world is ready to forgive, and lend a helping hand to assist the honest unfortunate ones to a firm footing. While willingness to help the hapless may be induced by personal interest and for personal gain, yet there is still a commendable Christian sentiment pervading it all that is considered one of the grand features of our modern business life.

Third. But failure is a serious matter. There is a tendency to pass them off as ordinary and of no consequence. The debtor thinks he will soon be on a firm footing again and be better off than ever; that his experience will be worth a great deal to him and enable him in the future to avoid all the difficulties which cause failure. But no one can be any better for having failed. People will not soon forget it, and he must live and act an honest life for a long time before they will believe he really intends to do right.

And then the debtor usually finds but little trouble in compromising with his creditors, and thus enabling him to begin business again, but he is fortunate indeed if he ever recovers from the blight. Thieves may get some benefit from a failure, but not usually so with honest men.

Occasionally it is said that failure adds zest and gives men renewed determination and that it thus paves the way for future success, and we hear it said too that success comes only after a series of failures; but we are forced to believe that the failure might be omitted with good effect in all these cases. Failure means a backward step; it means loss of time and loss of money; it means loss of confidence and loss of credit. It takes time to regain these, and the after success might, and no doubt, would have been even more brilliant had the failure been avoided.

§ 519. **Competition.** *First.* As the natural resources of the country are developed, and population begins to increase in any locality, new business enterprises are opened up, and often two stores are started where only one is needed. Capi-

tal is increasing in this country very rapidly and there is no nook or corner where there is a possibility of its lucrative employment but capital flows there to seek investment. No enterprise is so large that it cannot find capital enough to meets its wants, none so small that men do not strive to make a living out of it.

If a man with energy and the other qualifications to success pushes into a new locality and gets a start before others come, he is pretty sure to hold his own and come out winner. Of course every new town is going to be the town; and every new suburb is going to do wonders, and usually there are more stores started than the community can support and at last some of them must go, and only the best ones remain.

Second. But competition is a good thing after all. Those who wish to rise must have opposition. "The kite will not go up in a calm." And as a usual thing the only store in a locality will not amount to much. The dealer without opposition thinks he has things his own way and people *must* trade with him. He carries only second-class goods—though perhaps he sells for first-class prices—and makes no particular effort to please his customers; he has no regard for the neatness of his establishment, and becomes generally careless and indifferent. He probably imagines he sells as many goods as though he went to the expense of keeping a first-class store, but experience has taught many a man that such is not the case. People buy as little as possible and are not pleased with even that. But let a good store start in competition to the one we have described and see the inevitable result—people will purchase a third more goods and be pleased with the outlay. Now the old store must either improve or go under. Competition lends zest and vim to trade and makes dealers sharpen up their energies to obtain and keep patronage.

But competition is also necessary for the protection of buyers, and as buyers are by far the larger class we ought to look to the greatest good to the greatest number. "Competition

prevents robbery, and every merchant would be a licensed robber of the people if he could, and if competition did not prevent him.

Third. There is no law to regulate the profit to be made in selling goods. Each man is a law unto himself and regulates profits in conformity to his circumstances. He sells at 10 per cent. profit if he has to, but left to his own idea of right and equity, 100 or 200 per cent. would be only a moderate compensation for his time, the use of his money and the expense he is to for the accommodation of the public. The less competition the higher the prices.

The sole object of trusts and combines is to remove competition and then raise and maintain prices as high as the public purse will permit. We may take for example the oat meal trust. It buys up all the oatmeal mills in the country (those it cannot buy it shuts down by paying the owner his year's profits) and with the supply all in its own hands and no competition it may regulate the price as it chooses.

The same thing is true of a corner on the board of trade. It consists in removing all competition and then regulating prices according to a forced demand. One man, or a set of men, buys up all the wheat there is in sight and many bushels of futures. With all the wheat under their own control they fix the price as high as their conscience will permit.

But every retail and wholesale dealer would be a trust if he could. And he usually is when he has the field to himself.

Fourth, Another point which is appropriate to mention in this connection is the matter of business secrets. Brooks, the successful Bostonian said that if a man wished to succeed, "let him mind his own business." And Girard says that "no advantage results from telling one's business to others, except to create jealousy or competition when we are fortunate, and to gratify our enemies when we are otherwise."

The following from the "modern office" illustrates the point nicely:

Not long ago, I met the bookkeeper of a merchant who was in rather deep water, and whom a very slight push might force beyond any power to save. While we were talking another man joined us, and turning to the young man, asked:

"How is Mr. M. getting along in his affairs?"

"Ain't getting along at all," was the answer.

"Won't he pull through?"

"He thinks he will."

"What do you think?"

"I think it is six of one and half a dozen of another."

Within an hour the questioner had put his claim against M. into the hands of a lawyer. It was promptly brought before a justice, and before night it was known to several that M. had been sued. Now notice how things had worked. M. had made arrangements with a banker to help him over the crisis, and the matter was to have been closed the next morning at nine o'clock; but in the meantime M.'s clerk had said what he ought never to have said, brought his employer before the court, and frightened the banker from helping him. The merchant made an assignment.

Said a merchant to me while we were talking on this subject: "Boys will blab and you can't help it. I remember one of my clerks destroyed a very pretty trade I once had on a patent saw. I had no monopoly of it, except from the fact that none of my competitors kept it. I went to work quietly and built up a large trade on it—a trade that paid me a couple of thousand dollars in the season. I cautioned my traveling men to talk about the saw only to our customers, and to do no outside bragging. But I overlooked my entry clerk; I didn't suppose he was going up and down the street telling of the saws we sold, but that is just what he did. He fancied it added to his importance to show that the house was doing a big trade, and so he kept up an admirable tale of our trade in saws, often telling this when among the clerks of my competitors. It was not long until I found the saw with

other houses, and then my sales and profits began to drop. That boy's boasting cost me $1,500 a year."

Fifth. The most important thing that concerns us here is how competition affects our would-be debtor's chances for success. It can hardly be supposed that it ever increases his chances, though it may, and often does, lessen them. It does not allow him to charge more profit, but makes him give more goods and better service for the money, and the public is the gainer by the life that competition gives to trade. If the debtor has no opposition and other things are not unfavorable, his chances may be said to be good, and the credit man would be justified in extending his accommodations accordingly. But if competition is sharp, and the locality has more stores than it can support, the question resolves itself into one of comparitive ability, energy and financial status of the applicant. If the applicant is a new comer, his chances will still be lessened, for an old firm with an established trade will not probably sit still and let a new comer get a foothold; and these things must be borne in mind in considering the surroundings of the man you are about to trust. If his ability, both financial and otherwise, is not good in comparison with others, the risk should be assumed with great caution.

If, however, a new firm buys out an old and well established business, the matter of competition is not so important. The applicant now has the benefit of years of advertising, the good-will of the old firm, and his success is assured as far as competition may be concerned.

Mr. Earling remarks that "The professional manager of credits gives even little points careful consideration. Every item of advantage and disadvantage that the applicant for credit presents must be carefully weighed, and if the balances do not show in his favor, it is not alone your privilege but your duty, as a good business man, to decline the proffered favor."

§ 520. **Married or Single.** *First.* Even a man's social relations have an important bearing on the question under consideration. It may be that this is not always taken account of, but the fact remains; nevertheless, that it should be. A credit is a trust. We trust to the debtor's responsibility and integrity, or to legal measures for the fulfillment of his obligations. These are our means of collection and without them we would not be justified in giving any one credit. If we do not trust a man and if we have no confidence in him we will surely not let him have our goods and take his promise to pay instead. Credit and trust are based on confidence.

It may be new to some, but one of the main questions asked by leading houses, of an applicant for credit favors, is if he is married or single. This is not prompted by curiosity nor impudence. "All things being equal, the man with a family will have the preference; and the reason for it is founded on the presumption that the latter, owing to his family ties and domestic responsibility, is considered more in the light of a permanent fixture, more settled, and is credited with a greater degree of stability. The single man, on the other hand, without family ties and considerations, and who has no one's welfare to consider, and no reputation and character to injure but his own, is undoubtedly more prone to questionable habits, and is an easier prey to temptations. If some irregularity, either premeditated or otherwise, imperil his safety, there is nothing to hinder him from getting out of the law's reach on short notice."[c]

Second. This is the way business men view the matter. Not long ago an eastern firm that employed several hundred men, gave notice that all their single men who were not married by a specified future date would be discharged. This may appear to be an extreme measure, but it fully illustrates the importance which business men place on the matter. "Are you married?" is one of the principal interrogations put

[c] Earling.

to applicants for positions of trust, and where good faithful work is demanded. And a debtor is to be viewed in the same light as a trusted employe; the question and its answer is just as important in extending credit as it is in trusting your property to an employe. The cases are identical.

Third. It is not inferred here that a married man possesses more energy, ability or honesty than a single man. The difference is in the conditions surrounding the two men, which may cause different ambitions and different results. "The married state with a man favors personal economy, concentration of effort to a purpose, the mainspring of that purpose being the comfort and welfare of his family." Again, if a man is married he has something more than self to live and work for, and will accordingly apply himself more closely and strive harder for ultimate success. "Our whole social and commercial fabric is based on the individual effort and desire of each man to raise his family to the highest degree of respectability and independence."

§ 521. **Economy.** *First.* "Every advantage has its tax," and so the advantage arising from strict economy means self-denial and seeming sacrifice. "With every advantage of capital, ability and prestige, a merchant's ultimate success would still be a matter of doubt if he did not combine economy with his other good qualities and advantages." To become wealthy means economy by a thorough system of saving. If a man never saves he will never accumulate. A failure to save is the great drawback to many a man's ultimate financial success. It is easy enough to make money, but to save it and thus accumulate capital, is to deny oneself everything that is not positively necessary. Extravagance has been the direct cause of many a man's commercial failure, and the world does not seem to be improving very fast in this respect.

But what is meant by extravagance is regulated entirely by one's income. One man might spend $30,000 or $40,000 a year and not be extravagant, while another might be prodigal

indeed if he were to spend $1,000 or $1,500. It is a matter to be regulated entirely by the income of individuals.

It takes only a glance at the lives of successful merchants to prove that they possessed the quality of frugality in personal and business expenses, and that they practiced this as one of the cardinal virtues. We look at these men with their wealth and independence, and we are wont to think that they do not deny themselves any comfort or pleasure, but we are looking at results, not causes. They practiced strict economy *when it was requisite*, and until they had a solid foundation they practiced self-denial and true economy. Of this there is no doubt. They may have reached a point, now, where economy does not mean so much self-denial as it did then, but this only proves our assertion that a man may spend $30,000 a year and not be extravagant. Those who do the envying would probably not be willing to undergo the struggles which every successful merchant has undergone, and be willing to endure hardships and suffering while there is money to be had. But such is the story of the early life of all the great men who have amassed a fortune.

Men are free to act as they choose and may be frugal or prodigal as they please. If a man has nothing to spend and therefore spends nothing, he is in no sense economical. Economy is a voluntary act—a willingness to renounce present comforts which are within our means for the attainment of future prosperity and happiness.

Second. Some one has said that the world is divided into two classes, those who save and those who spend—the thrifty and the extravagant. The building of all the houses, the factories, the great institutions, and the accomplishment of all other great works which have rendered man both civilized and happy, has been done by the savers—the thrifty. But what has the other class done?—wasted their resources and enslaved their bodies and souls.

The object of business is to make money, and the majority

of those in business wish to make money, primarily, so as to provide for daily wants, and few make any more. And it is doubtful if many of them make even that, for when we consider the great amount lost in failures every year, we realize that this surely goes to the maintenance of the debtor who has failed.

Success is not an attendant on those who are content with present attainments, and as the merchant begins to make a respectable living there is born in him a desire to accumulate, to lay up something for his future independence, and happiness, and the welfare of those who are dependent on him. "Eventual liberty and ease are the motives." But he can realize his desires only under favorable circumstances and conditions. He must practice the cardinal virtues—honesty, industry, and economy.

Third. An eminent writer says that it is a recognized fact that consumers will buy more when they can do so on credit than when they have to pay cash. This may be verified in any community. Now, when the *dealer* can buy on credit he not only buys more than is necessary but he wastes in other directions. He has under his immediate control, both goods and money, and he may gratify his personal wants and comforts without so much as having to ask for credit. He takes and uses what he wants, and after he has consumed his own, as well as his creditor's property, he goes into bankruptcy. "When we consider, then, the ease with which wants can be gratified, and compare it with man's ability, or rather inability to resist temptation, the smallness of the number of successful business men is no surprise. If the practice of economy were a universal trait, there would be less of pauperism and poverty. It is the opposite trait in man, however, that prevails. Profligacy and extravagance are the causes that disturb individuals and society."

Fourth. "For practical illustrations of what economy, or want of it, will accomplish, it is only necessary for the reader

to look back. say twenty-five years, and recall the houses in business, and see how many, or rather how few, have survived till the present time. There must be reasons for this, and a careful examination will reveal them. It will be found invariably that the survivors have been of the careful, conservative, and rigidly economical class. They haven't made haste, neither have they made waste.

"Of a certain twenty-five large houses doing business twenty-five years ago, I find today but two in existence. Personal acquaintance with the business methods of all these houses leads to but one verdict. It was simply a question of economy versus extravagance and careless management. The man who is economical is always careful."[d]

Fifth. One of the great troubles with young and rising business men is that their wants increase in a much greater proportion than their incomes. It is so much easier to increase our expenses, both business and personal, than to increase our business and our profits. This is really one of the great questions for consideration.

In extending credit favors, the applicant's record for economy should be given proper consideration, as our safety and the debtor's success depend very largely upon this element.

§ 522. **Age.** *First.* As creditors, our safety is not alone dependent on the debtor's ability, integrity and economy, but we must rely also upon his ambition, energy and capacity for push and activity. These qualities are usually on the decline in old age, and are apt to be misdirected for want of experience in the extremely young business man. "After a man has passed the prime of life our confidence decreases in the ratio of his advancing years, and consequent decline of vitality and active usefulness." These remarks apply only to that class of men who are past the prime of life and are beginning business in a new line. For an old man to engage in a new undertaking is a virtual admission that up to this point his

[d] Earling.

life has been a failure. Now, if the best part of his life has shown no fruit, what can be expected of him in his old age when in competition with keen young men and advanced ideas?

Second. In extending credit to an applicant past the prime of life, the credit man must reason on the probability of failure and the possibility of securing his money after that. If he were a young or middle aged man we might speculate on his future possibilities; the latter has a long future before him and we may feel that a judgment against him may some day be good, or we may compromise and let him continue with the expectation of recovering the balance through his future possible success. There is hope and expectation here, and these are a part of the foundation of the credit system.

But the chances of an old man recovering after failure cannot be considered.

Third. With the extremely young business man the chances are also quite precarious. If he fails he is very likely to reason that he has quite enough experience in that calling and so he seeks employment in some other line of business. In this way his old creditors lose sight of him, and by the time he is again ready to engage in business for himself, his old debts are forgotten or outlawed.

§ 523. **Capital.** *First.* It takes capital—money—to pay bills. Men may use ability, experience, etc., and produce capital, however, and with the proceeds pay their debts. When the creditor trusts out his goods, he relies on the debtor's ability and honesty to increase their value, but, for his safety, he also requires that the debtor furnish a part of the capital, and the larger this proportion is to the amount of credit asked the better it will be for both parties.

Second. The amount of capital in any case to insure safety is a matter of speculation. "Some men have the faculty of making money, or rather of accumulating it, under the most unfavorable circumstances, while others, even more favorably

situated, can never make both ends meet." So it seems that capital, instead of being the primary element in the make-up of a would-be debtor, is really a secondary matter. We must first determine whether or not the applicant possesses the essential qualifications to success. Few business houses limit their transactions to a cash capital. It is not at all probable that ten per cent. of all kinds of business houses could do enough business on their cash capital to make it profitable. They use confidence as their capital, and so long as they hold this they may continue and prosper. Without this confidence the capital usually controlled by a dealer would be wholly inadequate, and his chances, to say the least, would be doubtful.

Third. It is of great importance to know where and how the applicant obtained his capital. If, as is often the case, he is a young and inexperienced man, with little ability, and is set up in business by some relative, his case is a rather precarious one. "There is no end of the money behind him," but the end is not long in being reached, as many men have learned to their sorrow. It is seldom long before the capital-furnishing relative becomes solicitous about the business, *and must be secured.* It is usually arranged in the beginning that the relative is not to lose, no matter who else does. As a matter of fact the general creditor loses everything, and about the only way to avoid this is to withhold all credit favors.

Fourth. Another class is when money has been inherited by young men, or has otherwise come into their hands without any efforts on their part. In regard to this class it becomes a question of the ability, honesty and experience of the young man. Until he establishes some reputation as to his business qualifications and demonstrates that these are being judiciously combined with his capital, his credit could not with impunity be extended beyond his bank account.

There have been so many cases of this kind that it is not hard to determine their status. A great many of them lose all their

capital in acquiring the necessary experience. The experience and preparation for the work should be obtained before the capital is used, and where this is not done the one is often lost before the other is gained.

Fifth. Another, and by far the better class, consists of those young men who have been clerks, and have gained education and experience, and by hard work and economical habits have accumulated a sufficient capital to go into business for themselves. Such a one's capital has a double value. Every dollar has cost him not only labor, but probably sacrifice of personal comforts. He has demonstrated his ability to earn and his determination to save, and this is a great recommendation. He knows the value of money, and this is the secret of properly spending it. These may be considered as belonging to the better class of debtors, and they may be trusted with any reasonable amount of money or goods.

§ 524. **Volume of Business.** *First.* The function of money is to facilitate commerce and trade, and no fault can be found with us, as a business community, for not doing business enough in proportion to our capital. We do rather too much for our own safety. In fact, the tendency to do business on a large scale may be said to be one of the evils of trade.

We receive a dollar and immediately pay it out, and thus many are benefited. "If nothing ever occurred to check the circulation of money at some given point, then we might rightfully claim that that method subserves the highest purpose which gives it the largest use in effecting exchanges, either for past or present transactions. Exchanges are made, *i. e.*, goods are bought and sold, on the theory that there is to be profit in the operations; therefore, the more transactions or trades that a dollar enables us to make the more productive it becomes, and the greater number of people that are benefited."

But experience teaches that when money reaches that point where exchanges are made with the greatest ease and without

friction, the condition indicating unlimited confidence and credit, that a halt may be looked for that will shake commerce from center to circumference. This is a panic. Now, every panic is foreshadowed by inordinate confidence and enormous speculation. "The limit of the purchasing power of a dollar is exceeded and ignored, and 'promises to pay' take its place largely; and along the whole line each depends on the other for the fulfillment of promises, without any really tangible basis." The only security for such promises, either oral or written, is confidence, and the makers pay if they can.

Second. In times of great speculation people seem to lose their heads, and in the final outcome it is found that even the most conservative are often involved. All is prosperity and confidence, each is going to attain wealth in a few months, when lo! the bubble bursts and all is lost! Every one engaged in business appears to know that commerce is governed by inflexible laws, but the greed for gain is so strong that it cannot be resisted, and men stake their all on a scheme—a veritable confidence game—that promises wealth at a bound. Experience and knowledge do not seem to profit at such times until it is too late.

To succeed, a man must stick to one thing until it is accomplished. If he cannot properly conduct business in one line, where is the foundation for the belief that he can control two?

Safety and conservatism is the most profitable, as may be verified by the many successful business houses that are to be found following this policy, and the many wrecks that are reported from week to week, caused by the opposite policy.

Third. Inability to pay one's obligations causes bankruptcy, and a multiplicity of bankruptcies occurring simultaneously constitute a commercial crisis. Commercial crises recur in cycles of about ten years; it takes about that long for men to forget the perils of excessive speculation. The following are some of the more important panics during the last century:

At Amsterdam, caused by the failure of the house of de Neufville, involving 77 failures, 1763.

Crisis of 1773 in Holland, causing failures aggregating $50,000,000 in liabilities.

The Hamburg crisis, caused by the French occupation of Holland in 1795, which gave to the former command of the continental trade, causing such speculation and rise of prices that the crash came in 1799, causing 82 failures, involving $10,000,000.

The English crisis of 1816, caused by misconception, founded on the overthrow of Napoleon, and the opening of the continent of Europe to British trade. When the miscalculation was discovered 6,616 firms went into bankruptcy.

The mercantile panic at Manchester, England, 1825, liabilities $10,000,000.

The panic of 1837, in the United States from land speculation, caused the failure of wild-cat state banks, and in the same year in England, caused by wild speculation and inflation of the credit system.

The "railway mania of 1845" caused a panic in England in 1847, involving over $150,000,000.

In 1857 occurred the mercantile crisis of England and of the United States, involving 7,200 failures for $560,000,000 in the latter country.

In 1866 occurred the great credit panic in England, partly caused by the "limited liability company" law of 1862, causing a panic involving $500,000,000. The houses of Overend & Gurney, and Morton, Peto & Co., went down in this crash.

In 1873 the general speculative panic in the United States, caused by investment in railway bonds, involving $250,000,000.

In 1884 the failure of the Marine Bank, of New York City, involving several firms and over $25,000,000.

Of course these are not all the panics which have occurred during the century, but we have cited the more important ones only.

The greater number of these crises were precipitated by over-confidence and over-credit, and what has caused them will cause others. Our experience in this direction ought to govern our actions with regard to future probabilities. There is science in business, though in this country few seem to realize it. "A hap-hazard method is always conditioned upon the whims of chance, and success is not its legitimate offspring."

Fourth. It would not be possible to determine the amount of business that can be safely done on a given capital. All the surrounding conditions would have to be looked into. It is safe, however, to say that when a house does so much business that it cannot pay its bills promptly, it is not safe to extend credit to it.

"Over-buying, over-trading, and not the least, over-trusting, are the greatest evils we have to contend with. The only rule that can be laid down to guide us safely, is to do all the business we can, but stop short of the point when the *fulfillment of our promise* is dependent upon the strict observance of the promise of others to us."

In other words, "we must keep ourselves in condition to meet our obligations, whether others meet theirs or not. A merchant is not compelled by this rule, to have the cash in the bank at all times for all his debts. That is not necessary. A certain percentage of accounts and assets can always be relied on and realized from. The liabilities should be kept within the limit of this percentage, leaving the balance as a surplus or as the representative of capital invested."

§ 525. **Assets—Real Estate.** *First.* If real estate is clear and unincumbered, it represents the best class of assets as a basis for credit. But there is nearly always some incumbrance on it; and whether this be great or small it renders the property unavailable to the creditor in case of the debtor's failure. Even when real estate is reported as clear, the debtor usually obtains money on it before making an assignment, sometimes

with the hope, perhaps, of bridging over the chasm, but often to save it from the wreck.

Second. But one thing about real estate is that it cannot be transferred, or mortgaged, without giving notice at once to the public. All records of this nature are watched by the mercantile agencies and reports made for the benefit of creditors.

Third. The homestead exemption law, with its attendant variation of appraisals, renders the creditor's equity intangible. "Real Estate cannot, therefore, be considered a part of the working and available capital of the business." There is some benefit, however, as it makes the debtor more of a fixture, and by paying no rent he is able to live more frugally.

"The credit man is sometimes misled by the scheduling, on the part of his customer, of storebuilding as a part of his capital, when in fact it is used conjointly for business and *dwelling* purposes, which brings it under the head of exemptions and the homestead law."

All these matters have their weight, and should be fully considered by the credit man about to extend credit.

§ 526. **Assets—Accounts and Bills Receivable.** *First.* The fact that the accounts and notes of many bankrupt concerns fail to be collected at all is alarming. One is likely to think that the deadbeats have been having their own way with such firms, and that the debtor has been exceedingly generous to every one except himself and those he owes.

Making an estimate of this class of assets, we may say that experience has demonstrated that we may expect to realize about 65 per cent. net. There being no rent, clerk hire, or other expenses of disposing of the property, this kind of assets costs less to convert than any other, and if the dealer has used ordinary discretion in trusting out his goods we may rely on a shrinkage of not over 35 per cent. It may be that the owner could realize a much larger per cent., but the debtors of a defunct firm are never anxious to pay—in fact, most of them

try in every way to avoid payment. This makes the receiver's task a difficult one, and much of the proceeds is taken up in attorney's fees and costs. We may safely calculate then on realizing about 65 per cent. on the book accounts and the bills receivable of the debtor at the time of his insolvency.

Second. If a man determines on the term of credit he can give, and then sticks firmly to that basis, even though he may be doing twice the amount of business as his working capital would seem to warrant, he is all right. But there are few men who will carry out their terms and make the buyer pay at the time he has promised to pay, and then few dealers seem to understand the importance of limiting their credit giving.

Merchants often argue that if they pay interest on over-due accounts that they are fulfilling their score to their creditor. But a merchant cannot afford to loan out any part of his working capital at simple interest. He must turn his capital several times a year in order to make it pay. If he loans his capital for 6 per cent., this means 6 per cent. per annum. Now how could a merchant pay the expense of running a business on 6 per cent. per annum on his capital?

The following from Earling will illustrate how important it is for a merchant to make his customers live up to the terms of sale: "If a merchant has a capital which enables him to give sixty days' time and still discount his bills, does it cut any figure or interfere with his discounting his bills should he be compelled to give ninety days? Most certainly it would. He would have tied up additional capital equal to thirty days' sales, which would not be available to him in time to discount his own bills any longer. The longer the time that is given or allowed to be taken, the greater will be the proportion of our capital made unavailable. Large and first-class houses understand this, and we have always found them demanding punctuality in the observance of terms. A firm doing a business of $1,000,000 a month, for instance, if it gives sixty

days' time, means that $2,000,000 is owing to it, and ninety days would mean $3,000,000 outstanding. Of course, more or less of our sales are discounted, but this we anticipate in our calculations here as well as in practice."

Third. No matter how we conduct our business otherwise, our safety and our profit depends upon the relative proportion of our capital to our accounts and bills receivable.

Suppose a man with $100 is doing a strictly cash business. If he can find buyers he can turn that $100 every day. Now if he makes ten per cent. profit, that $100 will earn him $3,130 a year, and this on the supposition that the profit is withdrawn each day and not added to the capital. But suppose he sells his $100 worth of goods on four months' credit, now he can turn his capital only three times during the year, and his profit is but $30.

If a house has sufficient capital to do a banking business in connection with their mercantile business it may give indefinite time and carry its customers as long as they are willing to pay interest; and this is often done. Some houses may be able to employ their surplus capital in no more profitable way, and where this is the case it is all well and good; but as a great majority of dealers have only enough capital to carry their business, they cannot afford to have their working capital tied up.

§ 527. **Assets--Personal Property and Stock.** *First.* We come now to the debtor's stock of merchandise and his personal property. In closing out the merchandise and converting it into cash we may expect to realize nearly the first cost, providing the goods have been bought judiciously and a market for them can be found. This class of assets is considered, by the credit man, to be the most available of all a debtor's property. But while it brings nearest its face value, yet there is quite a loss in the process of converting it.

Usually the assignee's sales are allowed to drag and continue for so long a time that the rent, clerk hire, lawyer's fees

and other items cause a great deal of expense. It sold by driblets the expense would be almost as much as the receipts; but if the whole stock is sold at once for cash, the buyer nearly always names his own price, so that the shrinkage is considerable in either case. Of the two ways, the latter is probably the best, as it is quickest and usually most profitable.

Second. So we see that in case of a failure and a bankrupt sale, the most available part of an insolvent's property is subject to great shrinkage, and by the time it is converted into cash and ready to divide among the creditors we may count on a loss of at least 35 per cent., leaving 65 per cent. to be realized. In taking an estimate then of an applicant's stock in trade, we are not justified in assuming that in case of failure, we may be able to realize more than 65 per cent. on the purported inventory valuation. And this is a fair estimate—many will not reach it. In extending credit we do so under the supposition that the debtor is going to fail and our estimate of his property must be made on that contingency.

Third. In estimating the property of a manufacturing business we must allow a much larger amount for shrinkage. Much of the assets will consist of unfinished articles, and these will bring even less than the raw material out of which they were made. The estimated value of such goods is merely nominal.

With the manufactured articles, their conversion into cash depends on circumstances. If they must be sold at a forced sale the loss will be great, and if they are seasonable goods and must be sold out of their season, the loss will be still greater. In the case of raw material, this will bring nearly market value. The tools, machinery, fixtures, etc., cannot be counted on for much; second-hand machinery is worth but a small part of its first cost. We cannot sell it unless a buyer who wishes to carry on the business, can be found, and this is not probable. This being the case, manufacturers usually name their own terms of settlement.

In closing out a stock of a manufacturer, then, we would not realize over 35 per cent., and this is a fair estimate. We see from this that in making credits we must discriminate between the different lines of business.

§ 528. **Liabilities.** *First.* In order to make a proper estimate of a debtor's probability of paying his debts we must know how his liabilities compare with his capital. To take a case in which the liabilities are equal to the capital is to presuppose a case of insolvency, and yet there are many such—and they seem to enjoy good credit too. But in cases of this kind there is always a halt; the creditor at last demands payment and the collapse comes; we are then lucky to get fifty cents on the dollar of our account.

A man's resources may not grow so very fast, but the liabilities of a man who is already near insolvency, grow with wonderful alacrity. And the reason is easy to deduce. Such a one must buy on credit and long time, and is, therefore, not able to obtain any "bargains," and besides he must pay the highest prices for everything. But the one who is able to pay cash, gathers up all the bargains, and thus while the one is becoming wealthy the other is being reduced to insolvency.

Second. But loss of confidence and credit is not the only loss experienced by the man whose accounts and bills payable are out of proportion to his capital. "The constant worry attendant upon this condition, the efforts made to turn a corner here and there, the figuring and conniving required to pull through, all these things engage his mind and time, and withdraw his labor from its legitimate functions."

Such men will hang on with rare persistence long after there is no hope of success. They expect something to "turn up," and though they may turn another corner or two, the result is inevitable. The collapse comes, and all concerned agree that it would have been much better had it come sooner. The creditor has lost money and the debtor has lost time, by the delay.

The only general rule regarding the proportion of liabilities to capital is to keep the indebtedness within the limits of positive ability to pay. If a man does this he is safe and entitled to credit to the extent of ordinary business wants. The man who does not is entitled to little or no favors that will jeopardize our property.

§ 529. **Insurance.** *First.* If a man is not concerned about the safety of his property enough to keep it insured, he is not entitled to credit. If the rates of insurance are high all the more reason for being insured—the risk must be greater. Even if the loss, in case of fire, would fall entirely on the owner, he being entirely out of debt, yet it is a violation of good business principles not to be insured.

"The good business man has for his motto that what is worth possessing is worth insuring, and the expense should be regarded in the same light as any other current expense, such as heat, light, etc."

We have to do with the merchant who owes for all or a large part of his goods, and "in justice to his creditors he should be fully insured; in fact, be insured for their benefit directly. It is a safeguard, and one which every creditor has a moral right to exact of his debtors."

Second. Large real estate owners and syndicates, and railroad companies, do not generally insure. A single fire would not cause them as much loss as the premium would amount to on the whole property. In other words they become their own insurers. But a merchant cannot do this. All his capital is located in one place, and a fire would mean financial ruin, and to avert such a calamity, the prudent man always insures, and thus protects his property, and often that of others, from loss. From the creditor's view it is the duty of every man to be insured. He cannot, of course, compel the debtor to insure, but he can refuse him credit unless he is insured. A man who cares nothing for the creditor's safety is not entitled to confidence and credit, and he ought not to have it.

§ 530. **Partnerships.** *First.* Going into partnership is one of the most important things of a man's life. Look well to the antecedents of your associate-to-be. Years of toil and accumulation of capital are sacrificed by being associated with a dishonest man, who has neither honor nor a good name to lose. Act in this regard with great care.

In considering a partnership from the standpoint of a creditor, we wish to know whether it is a good one, and whether the purpose for which it was formed is being accomplished. We wish also, to know whether the partners are producers or not. Whether they earn what they withdraw from the business for private use, or whether they are simply consumers.

Second. Another question to which we want an answer is, whether the business is large enough to support two families. Many of the smaller partnerships are prevented from rising owing to too large and constant a drain on their earnings for family support. No business can increase and succeed unless there is a chance for accumulation of capital and general growth. It cannot stand still and be considered in a healthy condition. It must be progressive and aggressive. A man must not only earn what he draws from the business, but his ultimate success demands that he draw as little as possible, so as to admit of as large an addition to his capital from year to year as possible.

§ 531. **Productive or Non-productive.** By this is meant, are the proprietors workers, and do they earn their daily wages. "If the proprietor be a hard working man himself, and an equivalent is rendered to the business in services for money drawn for living expenses, the conditions may be regarded as favorable in this case. But if the reverse is true, and the proprietor figures that the business owes him a living without any equivalent being rendered by him, thus necessitating the employment of help and the paying of wages, then the conditions must be regarded as unfavorable."

If a man has a trade at which he can work in connection with his merchandising, he can make good wages and does

not have to depend on the mercantile part of his business for his living expenses. And if he has good habits and other qualifications, he is a good risk, even though his capital is only nominal.

But the one who does not earn his own expenses, but hires the work done which he ought to do, cannot be considered as being a safe risk. In the first place, men who succeed are always workers; and, besides, one who does not work will always have more personal expenses, owing to the associates he is sure to have, than one who keeps busy.

While these points may not always be considered in this connection, yet the careful credit man does not ignore them.

§ 532. **Corporations.** *First.* The formation of corporate bodies for the purpose of railroading, manufacturing, banking, etc., has been a public benefaction. The corporation law has enabled these large concerns to establish these extensive enterprises, the existence of which would have been utterly impossible if the enormous capital required had to be contributed by a few persons. The whole country is interested in public improvements. and these companies have rendered a benefit that is unquestionable. No partnership could have commanded enough capital to have built the large railroads or equipped the immense factories and financial institutions of the present day.

Second. But what we have to do here with these corporations, co-operative associations and joint-stock companies, is the non-liability of the shareholders. While they enable many to contribute a little of their surplus to promote some enterprise, they also assure the contributor, the shareholder, that by legal enactment he is not responsible beyond the amount of his paid up stock. In a partnership or individual business, the creditor can take all of thed ebtor's property, except what is exempt by law, but in a corporation the shareholder is liable only to the extent of his stock. So that the credit man has the alleged capital stock to look to, and if this

is lost there is no other recourse. "There is no moral status, no individual integrity back of it."

Credit may be given to individuals up to their probability to pay, with a proper consideration of their business qualifications. But credit is due to corporations only to the extent of their paid up capital. With individuals they are bound during their life time to pay us, but when a company fails it ceases to exist, and the creditor must suffer the loss.

Third. In forming large enterprises, as we have already explained, the corporation law is a great benefit, "but when, as in late years, the stock-company plan has found adoption by all kinds of *enterprises*, with capital ranging from $1,000 upward, we are constrained to inquire into the purpose and motives of such organizations. To organize a stock-company for carrying on a small mercantile business with $2,000 capital, more or less, can hardly find justification on the grounds of any advantage to business in any sense."

But there is usually some personal reasons for such a move. These small concerns are usually in the control of one man, who owns most, if not all, the stock. It will also be found that he has reasons for not going into business in his own name. There is probably some unsatisfied judgment, claims, or business embarrassments that hinder him, but the stock-company furnishes a way for opening up business without fear of his old creditors.

In such cases the credit man ought to be very cautious how he extends his favors. A study of the manager's character will determine the "character" of the company.

Fourth. Of course there are bona fide companies formed for small manufacturing enterprises, etc., with small capital, but they frequently have poor management and after a great deal of wrangling for a year or so, they "go under" or pass into other hands.

There is no advantage in small corporations, nor in the incorporation of a firm whose reputation is not yet established.

An old and well established firm that already posesses the confidence of the community may do better business as a stock-company.

Of course, in making a proper estimate on these, the credit man must consider the amount of capital stock, the nature of the business, etc., before he could determine the limit of credit.

§ 533. **Chattel Mortgages.** *First.* It often happens in looking up a man's standing that we find there is a chattel mortgage on his stock of goods; or a dealer whom we have already trusted places a mortgage on his stock. This is a virtual admission of insolvency, and final failure, and no credit can be safely given in such a case.

The mercantile agencies have of late years been very diligent in watching the records, and reporting all chattel and other mortgages to their patrons. It is, therefore, considered equivalent to bankruptcy for a man to place a chattel mortgage on his stock, for all his creditors will hear of it at once and be demanding an immediate settlement, and the man who has found it necessary to chattel-mortgage his stock "is never in condition to stand a run."

Many dealers chattel-mortgage their stock to relieve them temporarily of some embarrassment, never thinking of the effect it will have on the minds of their creditors. Perhaps many of them think that the creditors will never know about it, forgetting, if perchance they ever knew, that records of such transactions are at once reported to the whole business community.

Second. If the dealer had a judgment recorded against him no one would give him credit, but a mortgage is just as bad. A judgment can be satisfied only by an execution and levy on his property, if any can be found, but a mortgage is already satisfied and no execution is necessary. A chattel mortgage is, therefore, worse than a judgment, except that in case of the former arrangements may be made for allowing the

debtor to continue in business as long as the conditions of the mortgage are carried out, while in case of a judgment the creditor is always watching for property to satisfy his claim.

To extend credit in such cases is to invite loss and to throw your property away of your own free will. This is not the purpose of business men. But all such dealers manage to get credit somewhere, though it is a mystery why houses will cater to such hazardous trade. It must be that they themselves are ignorant of the conditions which are necessary to success. The less a house has to do with a chattel-mortgaged dealer the better—unless it has the mortgage.

§ 534. **Various Kinds of Dealers.** *First.* A man who is not particular about the price he pays, but is sure to want the longest time, is not a fit person to trust. In this age of close competition, no dealer can succeed who cares neither how much he buys nor what he pays. Recklessness is no indication of success—it points to ultimate failure instead.

Second. It is a pleasure to deal with the "live-and-let-live buyer," and the man who knows what he wants. He knows what he wants and what he can sell, and is informed on the value of goods and is willing to give value for them. He is not inclined to "haggle." He either takes the goods, or he does not. This refers to the better class of merchants.

Third. We come now to the troublesome person known as the "crank." We find cranks in this as in every other calling. "Business houses, and their salesmen in particular, are not long in finding him out, and after he is once 'stamped and labeled,' we know about how to handle him, and save ourselves much annoyance. He is labeled all the way through, from the office to the shipping-room. Opposite his name on the ledger is marked 'crank.' Except by special request no 'monthly statement' is to be mailed to him. The chances are that he has a special grudge against statements, and we are generally made aware of this peculiarity of his after the first round. His orders we mark 'crank' when we send them

to the shippers. This is done to insure extraordinary care in filling them to the letter. Changes of quantities or the ordinary substitutions are not permissible in his case. To ship him a quarter of a dozen rather than to break a package for a sixth of a dozen as ordered, or to substitute even a better article than the one mentioned, are liberties which will cost you return freight charges, and entitle you to a liberal round of abuse besides. He seems to live for, and to have a special aptitude in the direction of finding fault with things." He is never satisfied with either terms or prices and keeps one in hot water all the time. But while he is disagreeable he does not ask favors in the way of credit. He always meets his engagements promptly and usually takes advantage of all the discounts for prompt cash. He seldom fails and if his fault finding can be tolerated his trade is profitable.

Fourth. Another class of dealers are those who, after a refusal on our part to trust them with our goods, owing to their ratings or other causes, write to us and try to argue their claims for credit, and making all manner of claims as to their intention of paying their debts. If we change our mind and give them favors, ten to one we will subsequently regret it. The man who is able and willing to pay does not have to beg for credit, and he will waste neither time nor stationery on you.

Another case is the man who sends an order, without solicitation, to a firm who is entirely out of his proper field. There are other towns and dealers nearer to him, and who should get his trade if it was worth having, and his credit must be at a low ebb in his own community that he is now seeking favors outside. Besides, in these times of "scrambling" for custom, orders that are worth having do not come unsolicited. Such cases must be thoroughly understood to insure safety.

§ 535. **Doubtful Credits.** *First.* Now it happens that there are many cases that, after all considerations, it is almost

impossible to decide whether the applicant is entitled to credit or not. A good way to decide these cases is to consider the credit you are about to give as a cash loan. Many look upon merchandise as something different from cash, and that it must be kept moving.

Another and probably just as good a method, is to take the benefit of the doubt and keep the goods on our shelves. This is the safest and probably the most business-like method to adopt. There are usually plenty of safe customers, and the doubtful ones are too hazardous anyway.

If we take five doubtful credits for $500 each, it is most certain, or at least very probable, that one of them will prove a loss. This does not leave much margin. The question then is whether it will pay to sell $2,500 worth of goods, with a certainty of losing $500, and a strong probability of losing $1,000.

Second. Mr. Earling sums up doubtful credits in this way: "Experience proves that in cases where the conditions and surroundings appear in every way favorable and satisfactory, the losses are quite large enough without taking chances *knowingly*. How much or how little risk we are warranted in taking will naturally be governed by the per cent. of profit we expect to realize in a given transaction. On a basis of profit that would net us as merchants only six per cent. per annum on the capital invested, the credit system of the country would be restricted to less than one-quarter of its present volume. Mercantile credits would be placed more nearly on a footing with bank credits. To make ten, or twelve, or twenty per cent. on our capital, however, offers temptation and inducement to take proportionate risks. 'The larger the interest the poorer the security,' is an old maxim well understood by money-lenders."

There is enough loss on first-class risks, so experience teaches, without taking extra hazards. A successful Chicago merchant had the right idea when he said: "There is plenty of good trade to be had, and I will have that, or none."

CHAPTER V.

Analysis of Mercantile Reports.

§536. Analysis of a report.
1. Two propositions.
2. A case with assets and liabilities equal.
3. The limit of credit.
537. Mercantile Report No. 1, and analysis.
538. Mercantile Report No. 2, and analysis.
§539. Mercantile Report No. 3, and analysis.
540. Mercantile Report No. 4.
541. Mercantile Report No. 5.
542. Mercantile Report No. 6.
543. Mercantile Report No. 7.
544. Mercantile Report No. 8.
545. Mercantile Report No. 9.

§ 536. **Analysis of a Report.** *First.* "The limit of credit in any given case must be governed by things outside the actual capital invested nearly as much as by the capital itself. No two cases could be judged alike in this respect, though the capital might be the same in both. We should have to take into account all the surroundings and facts, as required by our analysis of men and things, and this procedure would necessarily give us more latitude in one case than in another, irrespective of pecuniary resources.

"But all things have a starting point," and we will commence by stating two propositions:

First, we know that the man whose capital is sufficient to enable him to buy for cash, and who owns all his stock, accounts, etc., free of incumbrance, is safe. In selling to him we have nothing to fear from failure; he owes nothing, and cannot fail. The only risk we might incur in selling to him would come from his dishonesty, and not from his inability to pay or his lack of capital.

Second, if a man's liability is equal to his capital, he is not safe, and the point is reached where the credit man's money is jeopardized. We need not suppose a worse case than this, even for the sake of argument.

Second. "We establish a middle ground between the two propositions, namely, between absolute safety and the point where safety no longer exists. The first proposition needs no explanation or argument, and the credit man's task is made easy. But how far may we with safety depart from the cash basis? That we must keep inside the limit of the second proposition is also unquestioned. We have, to be sure, assets, consisting of stock, accounts, etc., aggregating in all $10,000, and we will say that these assets consist of half of merchandise and half of accounts and bills receivable. The liabilities we will suppose to be of equal amount, $10,000. We are here supposing by no means an exceptional or aggravated case. There is quite a percentage of business carried on with no better status than that, and, as in this case, where absolutely no capital is visible. To the experienced credit man the case is a hopeless one for both the debtor and the creditor, because it is inevitable that the business, sooner or later—and the sooner the better—must be closed up. Then, what would be our reasonable expectation? No business man would expect the estate to pay dollar for dollar, surely. Even under favorable circumstances, and with a good business man for assignee or receiver, the assets would not net the creditors over $6,500, or 65 per cent. of their claims, as this is considered a liberal estimate under an assignment.

Third. "What, then, would have to be our limit of credit to keep within the bounds of safety? On the supposition, justified by experience, that the assets of a mercantile firm, in the event of foreclosure or assignee's sale, do not amount to over 65 per cent., the limit of credit, to insure us dollar for dollar, must be fixed at 65 per cent. of the inventory value of the assets. In the case we have assumed, $10,000

assets would pay liabilities of $6,500, and this amount must be established as the limit, and in all cases this relative proportion should be maintained. The shrinkage of 35 per cent. represents the capital invested, but creditors are paid in full, and this is as it should be. The man who embarks in business is supposed to risk his capital, and not ours, in the enterprise, and in case of loss or failure, we, as prudent business men, should look to it that there is sufficient margin represented by capital to provide for emergencies."[a] We have already seen that the nature of the assets needs to be considered, and the probable shrinkage calculated according to their value and convertibility. Comments in regard to these may be found by referring to §§ 525–527.

§ 537. Mercantile Report No. 1.

J. R. Green. Town of 4,000, Michigan.

Stoves, Hardware, and Tin-shop.

(Aug. 23, 1892.)

"Has just started in. Is a well appearing man of twenty-seven years; married. His character is reputed good and habits steady. Is honest and punctual, and is well liked. He expects to carry a stock of about $2,500, and claims to have saved $1,200 out of his salary while at work for Jacobson & Co., for whom he worked for eight years. A well known stove house and a hardware firm have offered to carry him for from $1,000 to $1,500. He has no competitor here, and his outlook is good. He is not a practical tinner but is able to do some work at the bench if necessary."

ANALYSIS.

We have here all the requisites to a successful business career. The fact that two good houses have agreed to give him credit is an indication that they think well of him from a personal stand point. And for all ordinary business wants he is a good risk. His capital is small but it represents the result of his own labor and frugality. His past experience

[a] "Whom to Trust," by P. R. Earling.

and present risk are enough to make him careful in his management.

Another phase to be considered in the case is that he has never managed business for himself, and there is some risk in the direction of what his development will be. There is a very great difference between managing a business and working for some one else. A good workman is not necessarily a good manager, and we have record of many failures from just such cases. To be one's own "boss" is often disastrous. Other conditions being favorable, however, we will be justified in taking chances on this one element of doubt, and grant any reasonable credit.

§ 538. **Mercantile Report No. 2.**

B. H. Hanna. St. Louis, Mo.

Groceries.

(Apr. 7, 1892.)

"Has been in business here since 1880. Is forty-four years of age and has two sons, aged fifteen and eighteen, respectively, who help in the store. Has two other clerks. His character and habits are good, and he is reputed honest and upright. He is a hard worker and he attends strictly to his own business. His capital when starting was $600, which he claims he saved from his salary while clerking in a grocery store in New Jersey, whence he came. His inventory taken Jan. 1st, is as follows:

ASSETS.

Stock	$12,500
Accounts receivable	6,000
Bills receivable	1,500
Homestead	3,500
Other real estate	1,100
Other personal property	1,400
Total assets	$26,000

LIABILITIES.

Accounts payable (on stock)	$ 5,500
Bills payable (on real estate)	600
Total liabilities	$ 6,100

"He carries insurance on stock $9,400; on homestead $2,000; on personal property $600. Good local authorities state that they have never heard any complaint as to his manner of payment. He states that his sales last year amounted to a little less than $56,000."

ANALYSIS.

This is not a difficult case to decide. He has built up a lucrative business, and this is no doubt due to a combination of ability, industry, economy and intelligent management. His available assets are $21,400. He owes on this $5,500, and would, therefore, be safe for from $12,000 to $15,000. His accounts receivable is in good proportion to the volume of business, and shows that he has not more than two months' sales outstanding, which indicates that he attends strictly to his collections. The accounts not being of long standing we infer that they are collectible. The volume of business in proportion to capital indicates prudence and conservatism; many men with the same capital would attempt to do more business.

As for his antecedents, his record while here is sufficient.

As for experience, education, ability, mortgages, partnerships, etc., the report answers all these inferentially.

His methods of doing business are all that can be required, and the fact that he has his property all insured indicates that he looks after his own interests properly. He is good for his business requirements, and is entitled to credit to the full limit, which, owing to his prudence, he will not ask.

§ 539. **Mercantile Report No. 3.**

L. A. Smith & Co. General Store.

Town of 1,500 in Iowa.

(May 2, 1892.)

"Smith has been in business here since 1883; was formerly a printer. Is twenty-nine years old; married. The "Co." is represented by M. H. Piper, who was taken into the business in 1890. At that time Smith was in an embarrassed

condition, and Piper bought a half interest for $3,000 in cash, and put the business on a solid foundation again. Piper is twenty-three years old and inherited all his money, some $10,000, from a deceased uncle. Piper is not married, and his character and habits are bad. He has no notion of the value of money, and it is said that by personal extravagance he has nearly run through with the remainder of his inheritance. Both he and Smith are poor managers.

"They refuse to give statement of their condition, and say that their business is on a firm foundation and that trade is all that can be desired. Good local authorities think the firm is worth possibly $6,000 or $7,000. Nothing can be learned of their liabilities, though a coal dealer claims that he is unable to collect a coal bill of $45; and it is understood that a Des Moines house has refused them credit."

ANALYSIS.

Under character, habits, capital, antecedents and economy, this case can be easily disposed of. Smith's past record is not encouraging, and the fact that he was about to fail when Piper was admitted to the business would indicate that we must look to the latter for ultimate success. Piper's condition is anything but favorable. In the first place the report infers that he is not industrious or attentive to business, and he is therefore not a producer. His capital is all a gift and his extravagance is enough to condemn him as a business man. As soon as his ready money is gone he will probably begin to spend the firm's money. The fact that they refuse to make any statement when seeking credit accommodations would infer that their condition is not what it should be.

This is one of these doubtful cases in which we should take the benefit of the doubt and keep our goods for more responsible buyers. While they may be good just now for a small accommodation, yet it is probably only a question of a little time until they fail. And in case of failure we may conclude that the creditors will get a very small portion of their claims,

as the firm's liabilities are probably already too large, as evidenced by their refusal to give a statement.

§ 540. **Mercantile Report No. 4.** The analysis to the three reports already given will give the reader a good idea of the usual manner of examining a report, and the line of reasoning to arrive at a decision. We will now give several reports, without analysis, for practice for the student who wishes to become more proficient in the science of credit making. All these reports were actually received during the course of business, and they are changed in names and amounts only, so as to elude identification.

J. L. Stouder. Furniture and Notions.

Town of 12,000, Nebraska.

(Aug. 25, 1892.)

"Just starting in business, and a stranger here. He makes the following statement: 'Have been in the sewing machine business for the past ten years and made some money, which I invested in real estate in the town I came from. Property consists of storebuilding and lot, worth $10,000. Mortgaged for $2,500. I am going to sell this property as soon as I can and use the money in the business. Have no other property except household goods. I intend carrying a stock of $1,500.'

"Was formerly located at A———, and, under date of Sept. 8, 1892, it was learned that he owns a storebuilding, but not worth nearly what he claims. His business was selling machines, and these were sold to him on commission. Not known to have any responsibility beyond his equity in real estate. Nothing known of his character in particular."

§ 541. **Mercantile Report No. 5.**

Sam B. Smith. Town of 2,500 in Iowa.

General Store.

"Commenced business recently. Age twenty-two; single. For several years brakeman on railroad. Previous to that he was in a store for a short time. He has no means of his own

to speak of. His mother is quite well off, and the capital comes from this source. Calculates to carry small stock, from $1,800 to $2,000. He states that his mother will put in $2,000 for him as fast as the business warrants. Is a sober, industrious boy, attentive to business, and family well regarded. His purchases so far amount to $1,200. Paid cash $800, balance bought on credit."

§ 542. **Mercantile Report No. 6.**

J. F. Halloway. Town of 1,000, Iowa.

Dry Goods and Groceries.

(Sept. 1, 1892.)

"Has been in business here since 1879, and has built up quite a patronage. Is thirty-eight years old; married.

"He makes the following statement: 'Stock in store $9,000; storebuilding and lot $4,300; book accounts outstanding $3,200; homestead $2,500. Owe for stock $2,800; mortgage on homestead $1,800; no other indebtedness. Sales from Jan. 1, 1892, to date, about $37,000. Carry $5,000 insurance on stock.'

"It is learned that H. has been mixing in politics lately, and is often absent from the business for three or four days at a time, leaving the store in charge of employes. He is well liked, and is regarded as strictly honest and upright in all his dealings. His character and habits are good and he seems to be quite punctual in all his engagements."

§ 543. **Mercantile Report No. 7.**

The Acme Mercantile Co. Lumber and Mining Region.

(May 7, 1892.)

"Mr. L. A. Kempis, treasurer and manager, says the company was incorporated January last, with an authorized capital of $10,000, all paid in. Represented by merchandise. He says the business per month would aggregate $18,000; have $5,000 insurance on stock, and succeeds L. A. Kempis. Expects to carry about $20,000 stock through the winter. Confine purchases to about five large houses. Keeps bank account with

First National Bank of M——— and local bank. On March 9, 1892, they gave a statement as follows:

ASSETS.

Cash value of stock in store	$9,000
Stock in transit	500
Book accounts—good	800
Cash on hand and in bank	600
Real estate	2,000
Total assets	12,900

LIABILITIES.

Merchandise, open account, not due	500
Surplus in business	$12,400

"Kempis says, further, that he considers his interests, outside of the company, worth $50,000 over all liabilities.

"The company's books show he paid out, in about one month in March and April $5,000 in checks on two banks, leaving but a very small balance at present time. He claims to have about $10,000 now, gives liabilities of about $2,000, and says outstandings are about the same. Many claims have been received against Kempis individually, and some are in attorneys' hands, unpaid, with which nothing can apparently be done but to await his pleasure, and it is said that when he has the money he dislikes to pay a debt with it. The idea seems to be entertained that the fact of incorporation was for the purpose of limiting his liabilities and to block the collection of existing debts."

§ 544. Mercantile Report No. 8.

Brown & Smith. Iowa.

Wholesale Grocers.

(Sept. 15, 1892.)

"This firm commenced business here three years ago, and is composed of P. L. Brown and M. W. Smith. The former is a married man, about thirty-five years of age, who, we believe, failed once some time ago, but is spoken of in favorable terms.

Just prior to entering into this business, was engaged in shipping fruits to towns in this region, and not understood to have any means of his own. His partner, Smith, was an explorer, and understood to have a few thousand dollars. They started out with a stock of about $3,000, which they claimed was all paid for. They have been doing a large business from the start and making some money, but their capital is rather inadequate for the trade they do, although there is no complaint regarding payments, and we understand they confine the bulk of their purchases to one house. About one year ago a representative of a house called on them, and received the following statement of their condition:

"Stock, $10,000; outstandings, $6,000; cash in bank, $200; liabilities, about $9,000; on open accounts, about $500 past due, but not pressing, and $1,500 due the bank. Smith had homestead worth about $800. Merchandise sales for first six months of the year, $27,000, of which a little over one-fourth was cash.

"This statement was considered a candid one, but showed that they credit quite freely for a house with so light active capital; but claimed to scrutinize closely. They are regarded as strictly honest, and we understand they are given what little bank accommodations they need. They appear to have credit for the demands of their business, but it is probably reasonable to suppose that their account is allowed to run along. They do an immense business for their capital, which would be, nominally, $4,000 or $5,000, but thus far they seem to be able to turn themselves without any apparent inconvenience. Are very fair business men, steady and attentive, but it is advisable to use some caution in handling the account, as their business is crowding so rapidly that they are apt to overreach themselves.

"Supplemental to this agency report, is that made by a traveling agent: 'Brown is a good salesman, and a pusher. His partner is a nonentity, except as to capital originally fur-

nished. Doing too much credit business for means, however in fair credit, and seem to get all the goods needed. Think them honest and well intentioned toward everybody.'"

§ 545. **Mercantile Report No. 9.** The following report was obtained by a Des Moines house to determine credit on mail order received:

John Doe. Town of 3,000,
Near Omaha, Nebraska.
Retail Grocer.

"Commenced this business five years ago; firm was then Doe & Co., the 'Co.' being his father-in-law, a well-to-do farmer, who retired two years ago from the business. Under Doe & Co. the firm was regarded good, and enjoyed a first-class credit, although the habits of Doe were not good, and this, it is presumed, caused the father-in-law to drop out. He declines to give a statement. His stock is estimated at from $4,000 to $5,000. Does a large credit business with the farmers, and is not considered a sharp collector. No estimate can be made of liabilities, which he says are for current bills only. Considered responsible for a moderate amount. Hear no complaints."

CHAPTER VI.

INVENTORY VALUATIONS.[a]

§546. Self-deception.
547. Object of taking an inventory.
548. What is property worth?
549. Old stock, "odds and ends."
550 Invoicing a manufacturing plant.
§551. Accounts and bills receivable.
1. Those found uncollectible.
2. Those against estates in the hands of receivers, etc.
3. Those past due in lawyer's hands, for collection.
552. Suspense account.

§ 546. **Self-deception.** There is a right way and a wrong way to do almost everything, and there are safe and unsafe methods of doing business. We call attention to the methods employed by merchants in taking an inventory. There is little difference in opinion as to the method to pursue in this matter, but the difference in practice is very great. Strange as it may seem that people should willfully deceive themselves, it is nevertheless a fact that self-deception is of every-day occurrence among business men. It seems that there is a weakness in our nature that makes us try to appear for more than we are, and especially so in a financial sense. But we not only deceive others but we deceive ourselves. We are not satisfied to gauge our effects by a cash valuation. Even when we know what this would be we still hope to realize more, and so place on them a fictitious value.

§ 547. **Object of Taking an Inventory.** What is an inventory taken for? First, to enable the proprietor to ascertain his true present worth. This is an important bit of informa-

[a] Most of the ideas in this chapter are from "Whom to Trust," by P. R. Earling.

tion, for it is necessary for him to know his condition that he may conduct his future affairs intelligently and with greater safety. Second, to enable him to determine whether his business is prosperous or otherwise. This is of great importance to the successful business man. To continue a business that is unprofitable is the mark of a bankrupt. A knowledge of such facts will determine us to retire from the business or devise some means of remedying the defect.

§ 548. **What is Property Worth?** In a strict sense property is worth what we can realize from it in money whenever it is desired to convert it. This may mean a 'forced sale' valuation, but that is not demanded, by even the strictest rules of business practice. What can be realized from property in the ordinary course of trade, or what it can be duplicated for, furnishes a fair and safe basis for an estimate of its worth. A stock is worth what it would cost to replace. It may be worth more or less a month hence, but all subsequent variations in value enter into the following year's profit or loss account, or inventory.

The plan followed by conservative houses is to appraise their stock, personal and other property, at the lowest cash market value. Some are still more conservative, and give goods credit for cost only when that is below the market, and at market value only when that is below cost. The first plan is safe but the second is safer, and, as no injury is done to the owners or any one else, it may commend itself to the reader. The aim should be to appraise our property in such a manner, that if we should subsequently decide to retire from business, that we would realize the full limit of our calculations. How many do this?

As far as the profit or loss is concerned it makes no difference what method is used in appraising inventory, so long as one method is adhered to from year to year.

§ 549. **Old Stock, "Odds and Ends."** Where the greatest mistake is made, however, and where the greatest self-decep-

tion is practiced, is on old stock, goods out of date, broken assortments, and "odds and ends" generally, so that unless great care is exercised, a large quantity of these will be on hand year after year. To take these at cost, as is often done, is unsafe and unbusiness-like. They have an auction-house, or "job-lot" value, and the proper thing to do is to ascertain that before each inventory, by converting into cash by auction or job-lot sale. It often occurs that old and reputable houses, after doing business for a life-time, and thinking themselves well-off, have found on winding up that they were comparatively poor, or altogether bankrupt, for no other cause than giving a lot of old rubbish a fictitious value which a money standard will not warrant.

§ 550. **Invoicing a Manufacturing Plant.** In the case of a manufacturing plant that is partly composed of machinery, tools, patterns, fixtures, etc., the following plan is largely adopted in regard to values: all the machinery, tools and fixtures, etc., are charged to machinery account at cost. Labor expended in putting them up, fitting and repairing, is charged into expense account directly. At the end of each year the machinery account is credited with a percentage—say ten per cent.—for wear and tear and depreciation. If the business was closed out the first year or so, this method would not cover the depreciation, but in carrying it on permanently, we can see that in ten years the first year's investment would stand cancelled on the books.

Of course even second-hand machinery has some value and when this is reached the discounting process is stopped. It is simply intended to arrive at a fair valuation, and at which the property would be convertible.

§ 551. **Accounts and Bills Receivable.** But the most difficulty is experienced in appraising, at its actual value, property in the shape of Accounts and Bills Receivable. There are few accounts that we can be absolutely sure of. Those which we look upon as the best, sometimes turn out a loss, and the more doubtful ones come in all right.

In order not to be misled in our calculations of what is due us, and what will be paid, we may classify our accounts and bills receivable, and treat each class separately, by a general average, such as our past experience indicates. We divide them into three classes, viz:

1. *Accounts and notes which have been found uncollectible after exhausting all the means at our command.* These should be charged up to loss and gain account and expunged from the ledger.

2. *Accounts against estates in the hands of assignees and receivers.* These should be charged, in part, to loss and gain account. We may, with safety, depend on realizing one-third of these; the other two-thirds should be charged up to loss and gain. This is by no means an under-valuation.

3. *Accounts past due, in the hands of attorneys for collection.* This refers to those wherein the responsibility of the debtors has not yet been ascertained. They are past due, and the ordinary methods of securing payment have failed. They may or may not be convertible by law. Some of these can be collected in full, others in part, and others not at all, and it is impossible to tell which is which. Charge one-half of these to loss and gain and you will not be far out of the way. It is assumed here that all accounts are placed promptly in the lawyer's hands when not settled within a reasonable time after due.

In class three only "live" accounts are contemplated.

§ 552. **Suspense Account.** For convenience accounts under class three may be closed into "Doubtful" or "Suspense" account, and one-half of the total charged to loss and gain. This leaves one-half of their face value to inventory. The same may be done with class two—then charge two-thirds up to loss and gain, leaving one-third to inventory as available assets.

Because accounts are charged up to loss and gain, or to suspense account, and balanced on our ledger, does not sig-

nify that we are to lose sight of them. A "Loss and Gain Ledger," independently of the regular books, is usually kept, and old claims are thus looked after. Some of these are resurrected occasionally, by watching them and keeping track of the movements of our defunct debtors. An entry once in a while on the credit side of loss and gain does not mar the appearance of that account.

The bearing this chapter has on credits will be apparent when we consider that we rely almost entirely on the applicants for credit, themselves, for the estimate placed on their capital and resources. Whether the estimates are made on a basis of actual value, or whether unsalable goods and worthless accounts, make up the sum total, largely or in part, is beyond our means of ascertaining. But appreciating the fact, that over-estimates are the rule, and ficticious valuations are frequent, more from lack of good business methods than from bad intentions, perhaps, the necessity becomes manifest for making allowance for a liberal, average shrinkage.

CHAPTER VII.

THE ART AND PRACTICE OF ADVERTISING.

§553. Advertising.
554. Lying in advertisements.
555. Unprofitable advertising.
1. Upside down.
2. "Don't read the other side."
3. "Look in this space next week."
4. "This space reserved."
5. Preliminary initial advertisements.
6. Same.
7. Same.
8. Puzzles.
556. Why some advertisements are never heard from.
557. Mistakes of small advertisers.
558. Opinions regarding advertising.
1. Definition of advertisement.
2. Marshall Field & Co., dry goods.
3. Fisk, Joseph & Co., dry goods.
4. Chas. Gossage & Co., dry goods.
5. Carson, Pirie & Co., dry goods.
6. Dunlap Smith & Co., real estate.
7. Snow & Dickinson, real estate.
§558. Opinions regarding advertising.
8. S. E. Gross, real estate.
9. W. A. Merigold, real estate.
10. E. A. Cummings & Co., real estate.
11. Putnam Clothing House.
12. Browning, King & Co., clothiers.
13. J. W. Tuttle, clothier.
14 F. M. Atwood, clothier.
15. A. H. Revell & Co., furniture.
16. Tobey Furniture Co.
17. N. K. Fairbank & Co., soap.
18. Jas. S. Kirk & Co., soap.
19. C. H. Slack, grocer.
20. Lyon & Potter, music.
559. The satirical in advertising.
560. Show window advertising.
561. Advertising agencies — placing advertisements.
1 Selecting the method.
2. Pro and con of agencies.
3. Method and practice.
562. Methods of advertising.
563. About writing and displaying advertisements.
564. Measuring advertisements.
565. Suggestions for advertisers.

§ 553. **Advertising.** To succeed, a business man must have more than capital, economy and honesty, and more than goods to sell. He must have patronage, and it will usually

not come of itself—he must ask for it. Advertising is the lubricating oil of business. It is what brings trade, without which there can be no success. The people must know where you are and what you are doing—they will not hunt you up to find out. You must tell them and convince them that what you have will satisfy their wants. This can only be done by well timed, judicious and constant advertising.

But to make advertising pay it must be done well. Barrels of money are wasted every year by injudicious advertising. Men advertise at random, and then wonder why they do not get good returns.

Have something to say, say it, and then stop, as Franklin says, and in regard to advertising this means to have good goods, at reasonable prices, and then to tell it right to the point, properly displayed, and without lying about it.

§ 554. **Lying in Advertisements.** And on this point of lying, Major Richards says: "If he is not honest who yields to the temptation to lie, he is not wise who does not know that lying in this age will not deceive; that the most ingenious and persistent lying will not only fail to establish belief in circulation which you do not possess, but will inevitably cloud even that which you do possess."

Advertisers often claim too much. To claim that the article which you are selling is far superior to all its competitors—"the best in the world"—is to arouse a spirit of denial. The advertiser who simply shows up the merits of his own goods and lets his competitors take care of themselves, is the one who convinces the prospective buyer. The customer is not interested in your strife with your competitor. He wants to know the good qualities of your goods—not the bad qualities of others'—and he may then use his own judgment as to which he wants.

§ 555. **Unprofitable Advertising.** *First.* There is a class of advertisers who seem to be imbued with the idea that the more difficulty is placed in the way of reading their adver-

tisements, the more they will be read. This fallacy takes various forms, most of which are more or less familiar, and all of which are decidedly objectionable.

The most common of these is to order one's advertisement printed upside down in the papers. This is an old dodge and is, fortunately, nearly obsolete in the city press. It still holds in the country journals, however.

Now, it is hard enough to get people to read advertisements at all, without putting extra obstacles in their way, and while it may not be necessary to stand on one's head to read such an advertisement, it certainly puts the reader to the trouble (slight though it may be) of turning the paper over in order to peruse it, a trouble which in these days of business will not be taken by one out of five.

Second. Of the same order are the signs one occasionally sees strung across the sidewalk, marked "DON'T READ THE OTHER SIDE," a mandate which is usually obeyed to the letter. There is a wagon in Boston on which the owner's name and business are lettered upside down. It may attract attention, but it is safe to say that not one in ten of those who see it can read it.

This being the case, what can be more foolish than the advertisement which appeared not long ago in a trade journal, the reading matter of which was set in a spiral line, beginning at the center and gradually working outward. To read this card would require six complete revolutions of the book, a bulky one, a task which not one man in five hundred would undertake in order to read an advertisement, however much he might be interested in its contents.

Third. In the same line are the announcements "LOOK IN THIS PLACE NEXT WEEK" and the like, printed in the center of a large space. Who do you suppose remembers to follow your advice? Nobody. People don't buy papers to be regaled by promises of what next week will have for them.

Fourth. Neither are their curiosity and admiration stimu-

lated by such trashy announcements as "JOHN BROWN OWNS THIS COLUMN." What does the reader care for John Brown? Two to one, if the matter is given any thought at all, it is that John is wasting his money and making a fool of himself.

Fifth. There are ways of piquing the curiosity of the public in such a manner as to be profitable. Who will deny that the man who advertised

S.-T.-1860-X.

made a ten-stroke? He spent a big pile of money, for those days, in advertising this one line. Nobody knew what it meant. But after he had made the phrase a by-word in everybody's mouth he pushed the advantage gained for all it was worth, and the bitters which bore this trade-mark found their way also into the mouths of a large proportion of the populace. This advertising made Plantation Bitters the best selling nostrum of its kind for many years, and the originator of the scheme a rich man.

Sixth. A dozen or more years ago a soap manufacturer advertised the single word

GOLD

in a similar style. Not content with taking a good deal of space in the daily papers, and covering the dead walls, curb-stones and bill-boards with his advertisement, he had thousands of cheap flags made with this one word on them and distributed them to school children. And he paid agents to go around and place these flags on the head of every horse whose driver would permit such decoration. His advertising was the talk of the community.

But there is always a special danger in this style of advertising. Whenever there is a way open to profit at another's expense, some one is always to be found to take advantage of it. There are always to be found concerns who are willing to reap the harvest they have not sowed, and who will steal another man's thunder without any phenomenally exhaustive drain upon their consciences.

It was so with Gold Soap advertising. I have recalled this incident to show that nothing but a large extra expenditure of money saved this scheme from becoming not only absolutely valueless to its originator, but of direct benefit to some other entirely distinct concern. After the "gold" excitement had been thoroughly worked up, an advertisement appeared in all the papers which had originally contained the enigmatic word. It was headed "Gold," giving the readers the impression that the preliminary advertisements were for the purpose of booming a land company, which offered real estate at such prices that gold dollars at fifty cents would be a poor investment. It was only by a largely increased outlay that the Gold Soap men reaped any advantage by their preliminary announcements.

Seventh. A similar experience befell another soap manufacturer only about two years ago. For several weeks the cabalistic letters "S. A. S." appeared in every form of advertisement, dodgers, posters, street-car placards and newspapers. There is no doubt that a good deal of money was spent in popularizing these three letters. And with what result? Some one in Connecticut saw a chance to realize a large amount of advertising by stealing a march, so he began advertising "Self Adjusting Stays," surrounded by lines of "S. A. S." A shoe dealer in Boston advertised "Stiff Ankle Supporters" and "Self Acting Sandals," and these piratical individuals knocked the wind out of the soap man's sails, for a time at least.

The man who tries the initial dodge today must needs have a sharp eye, a good amount of nerve and a bigger amount of money. Some peculiar name or design which can be protected as a trade-mark would be much better, as this can be registered and its use by other parties prevented.

Eighth. A similar method of attracting attention is by the puzzle or rebus. It is said that children who cultivate a taste for the puzzle departments of juvenile periodicals never

lose a desire to decipher such things wherever they find them, and this desire does not diminish as they grow to manhood. Perhaps not. I won't say this is not true, but does any sane man believe that it is good advertising to waste space which costs so much a line, by publishing poorly drawn cuts of a tea chest and a back-number hat to represent "that," and such like trash? Does the man live who thinks anything published in such hieroglyphics will make any impression on the public?

If he does—well, if he does, let him spend his money that way. He will learn better by experience. I say that if he spent the money it costs to engrave these childish puzzles in getting good cuts or expert advice, he would be better satisfied with his advertisement, both in attractiveness and effectiveness.[a]

§ 556. **Why some Advertisements are never Heard from.** Sometimes important information is left out of an advertisement. I notice now an illustrated advertisement showing a self-satisfied Knickerbocker gentleman of the old school enjoying his pipe, and the advertiser praises the value of "Golden Sceptre," and urges all to try it. Now what Golden Sceptre is we don't know. It may be tobacco; perhaps it is sweet fern leaves, or almost anything else. A doubt left in the mind of the reader mars an otherwise good advertisement.

All advertising prompts inquiry, primarily that is what it is for.

First. Impress the reader; catch his attention so he will read it, otherwise it is a dead loss.

Second. Tell the story briefly, but with interest, so as to hold the attention.

Third. Anticipate the first natural curiosity of the reader, and leave details. But to get an answer to the first natural or incidental inquiry, if the reader is put to the trouble of sitting down and writing a letter, ordinarily you won't get him.

[a] George E. B. Putnam, in Business, Nov., 1892.

For instance: if it is not a staple article found in general stores, the first natural inquiry in the mind of the reader is, "Where can I get this, and what will it cost?" Not to leave this question unanswered, but to work it into the story with interest, at the right point, is an art.

I find a good illustration of the first and second injunction very cleverly carried out in an eight-page advertisement of the Century Dictionary in the January *Century*, but the third precept has been entirely overlooked. The beginning of the advertisement with the statement that English is becoming the world's language, and the statistics following to prove it, impress the reader. The details and illustrations which follow will, if he is interested, hold his attention, although it is rather long. But after reading, the reader naturally says to himself, "I would like to have one of those dictionaries; I wonder what they cost?" This natural inquiry is not anticipated. One single line more would have done the business, but it is not there. Naturally, the magnitude of the work has been so elaborately described, I feel it is too expensive; 7,000 pages, 24 volumes, and ten years of labor, I "guess" it must be $240 or more, and I conclude I cannot afford it.

The advertisement is cleverly written, and may have done its work; but that was six months ago, and all that I now remember is, that everybody is going to speak English, and that the Century Dictionary must be a very costly work. If this is the impression intended by the advertiser, the advertisement is a success.[b]

§ 557. **Mistakes of Small Advertisers.** This is an age of advertising, and the idea has been pretty thoroughly accepted that to be successful a man must advertise. Many men believe this who have a very indefinite idea of how it should be done.

It is on account of this that many, I might say nearly all, local papers (I do not include metropolitan dailies in the cate-

[b] I. F. Place, in Printer's Ink, Sept. 7, 1892.

gory of "local papers") have from one to three columns of business or professional cards, which look much the same as the left-hand column on page 396.

These advertisements remain, from one year's end to the next, in the same place and the same type. The casual reader may glance at them; the regular reader never. Yet nearly all the readers of local papers are regular readers. Very few of the casual readers are purchasers in the local stores. Under these circumstances do you wonder that these tradesmen and mechanics conclude that "all this talk about advertising is bosh"?

It would be unjust to say that such advertising is valueless. It is worth something, but not much. I believe that all advertising of local business in local papers pays—that it has some value. But such stereotyped advertisements, year in, year out, are about as near valueless as any can be in a live paper.

Such advertisements make dull reading. They say nothing which interests. They do not suggest any want in the readers' minds which the advertiser can supply. To say that Richards is an apothecary is not half as effective advertising in bringing business as it would be to say that Richards can cure a cough or a corn for a quarter. Lots of people have coughs or corns, yet these same people walk by a dozen drug stores every day and never think of entering one to buy a remedy.

A dull statement of fact may impart information, but if it does not arouse any interest it fails in its mission.

Plain, uniform type and a certain requirement that all advertisements must be each just like its neighbor may make a paper look well, but it destroys individuality. Individuality is what makes advertising attractive, makes advertising readable, makes advertising pay—individuality in ideas, in wording, in arrangement, in typography.

Get out of the rut.

AS THEY ARE

BUSINESS CARDS.

JAMES H. RICHARDS.
DRUGGIST AND APOTHECARY,
24 South Main St.

Patent and Proprietary Medicines always on hand. Physicians' Prescriptions carefully prepared.

CHARLES B. McKENZIE,
Dealer in
BOOTS AND SHOES.

Also repairing done at short notice.
4 Main Street, next the P. O.

GEORGE L. COOKE, D. D. S.,
(Formerly A. A. & G. L. Cooke.)
Rooms over First National Bank, Main Street.

A. H. KENT'S
TROY LAUNDRY.

All kinds of family laundry done with neatness and dispatch. Special attention paid to fine work. Ruffling and fancy ironing done to order. Lace curtains made to look like new. Collars and cuffs 2 cents each.
129 Centre Street.

A. PHILLIPINI,
FRUIT DEALER,
23 Main St.

Oranges, Lemons, Bananas, Nuts, Raisins, Dates, Prunes, Apples, Pears and Peaches in their season. Soda Water and Root Beer. Peanuts fresh roasted; also Chestnuts.

RICHARDSON & SON,
DRY GOODS.

Silks, Cotton and Woolen Fabrics, Ribbons, Laces, Fancy Goods, Notions and Sundries.
76 Main Street, corner of Elm St.

STEVENS & COMPANY,
Dealers in
MEN'S, BOYS' AND YOUTHS' CLOTHING AND GENTS' FURNISHING GOODS,
6 Main Street, near the Post-Office.

AS THEY MIGHT BE.

BUSINESS CARDS.

Richards, The Druggist,

Will Cure A Cough, A Cold, A Sprain, A Headache, A Toothache, A Backache For 25c.

OTHER ACHES IN PROPORTION.

24 South Main St.

LOOK at Your SHOES.
DON'T YOU WANT A NEW PAIR?
Look at My $3.00 Shoes.
You'll want 'em. You'll buy 'em.
McKENZIE, next door to the Post-Office.

I MAKE TEETH.
I FILL TEETH.
I PULL TEETH;
FULL SETS FROM $10 UPWARD. Fresh gas made daily. Partial sets, bridge work and all modern improved methods of dentistry practised.
GEO. L. COOKE, D. D. S.,
First Nat'l Bank Bld'g, Main St.

YOUR linen will wear twice as *long if you send it to* Kent's Hand Laundry. *No machinery, no acids, no chemicals used. Telephone or send postal and we'll call.*

129 Central St.

BERRIES ARE RIPE!
I HAVE
Blackberries, Blueberries, Gooseberries.
Drink Lemonade this hot weather.
Lemons 25 cents a dozen.
PHILLIPINI 23 MAIN ST.
ROOT BEER SOLD HERE

JERUSALEM

is a good ways off. Our prices are way off. Can't name bargains here. Space too small. Look in our window, corner of Elm and Main Sts. Just for a sample bargain, a Pure Silk Umbrella, $2.25. Lots of similar bargains.

RICHARDSON & SON.

SLIGHTLY SOILED SUMMER SUITS SOLD AT STEVENS' STORE AT 6 MAIN STREET. SURPRISING SACRIFICES.

Let people see that you are advertising to get their trade, not simply to follow the procession. These advertisements in the left-hand column are real ones, cut from a prosperous paper. I have omitted or changed the name of the town, but all else stands as published this week, next week, next year, if the contracts are renewed.

Over against these, in the right-hand column and parallel thereto, I have endeavored to give an idea of how, without increasing the space occupied, these tradesmen could make people read their announcements, and, by reading, acquire some desires which will bring them to the stores and force them to spend money.

I think that every reader will acknowledge that the breeziness of the boot and shoe advertisement will make people read it, after the border has attracted their eye.

George L. Cook may be a D. D. S., and he may formerly have been A. A. & G. L. Cook, though I can't really imagine how. It is, of course, interesting to know this, and that he rooms over the first National Bank, but who with an aching tooth or a desire for a set of store teeth can gain any information from such a card? I don't believe one man in a hundred, or one woman in a thousand, would know who or what Geo. L. Cook was. It goes without saying that *for business* the opposite card is away ahead.

The laundryman tries to crowd too much in little space. The only real valuable point in his advertisement is his price for laundering collars and cuffs. Over against this may be placed the neat, straightforward statement in the right-hand column. The plain type gives it an individuality which insures reading.

Fruit dealers do not advertise much, but I think more business would come from mine than from Antonio Phillipini's advertisement.

Richardson & Son are fogies, old and young, or perhaps the son cannot bring the father around to modern ideas. A one-

inch space for a dry goods store is generally useless. However, to be seen one must use startling methods, if no larger space is taken. I approve of taking more, but if only the inch space is used, drop dignity and resort to impudence to draw the reader's attention. The same may be said of a clothier. An inch space is too small. No one is likely to take any notice of Stevens & Co.'s card in the left-hand column. How many would fail to read the right-hand one?

Such cards should be changed often. Better change every week. The publishers may complain, may possibly demur at the expense. Pay them the extra cost, but change it. Strive to make your card different from your neighbors' in the column. Then you will find that people read your advertisement—and reading leads to business.[b]

§ 558. **Opinions regarding the Value of Advertising, from the Merchants of a Great City.** *First.* A short time ago the Chicago *Tribune* sent out a reporter to inquire among the prominent advertisers in that city concerning their methods and the ideas underlying their enterprise. Several columns of interviews were printed as a direct result. We have room for only a brief summary, with extracts of a sentence or two from each of several of the more important interviews. At the outset the article referred to the present as being an advertising age. Everybody, except those who are employed by some one else, advertises. An advertisement, then, is the public announcement of a fact. This is the generally accepted meaning of the term. More specifically, it was pointed out, it means something which is accepted as true, and published for the benefit of the person who pays for the advertisement.

Second. Speaking of the characteristics of the work of different advertisers, the article continued: Marshall Field & Co., the leading dry goods house in Chicago, as a rule, make simple announcements of a special sale, bargain or display. The result, they declare, is invariably noticeable in the increased

[b] G. E. B. Putnam, in Printer's Ink, Aug. 31, 1892.

business of the department. Before sending out these announcements the heads of the departments are consulted with reference to what should be advertised. Careful attention is given to the typographical display upon the part of Mr. Stone, the gentleman who has charge of the advertising. Of this he has made a very careful and original study, and his daily preparation of copy is assisted by a book in which are specimen lines of different fonts of type. By knowing what the different newspaper offices have, and by using their designating numbers, Mr. Stone is able to give the foreman and printers his directions in a way never to fail of being understood.

Third. Mr. Greenbaum, of Fish, Joseph & Co., also in the dry goods line, said: "We certainly believe in advertising, more especially in telling the truth when we advertise. People rely on truthful accounts and on finding things in the store just as represented."

Fourth. J. H. Wood, of Gossage's dry goods house, said: "We do no sensational advertising and use no glaring head lines. All we aim to do is to let our patrons and the public know, in as terse a way as possible, of any special sales we have going on. We depend altogether on the values we give, and we strive to back up our assertions about attractions with the goods we sell. Merchants who misrepresent their goods in advertisements had better go out of business. Idle talk in advertising is expensive. Tell what you have to tell in as little space as possible, but do not spoil the effect by making it too small."

Fifth. S. S. McLeish, of Carson, Pirie & Co., said: "Posters are valuable, but display advertisements in the leading dailies bring us customers. Dodgers do some good. Signs do not attract the class of customers we desire. A firm long established finds it necessary to advertise its name. A new firm must make a display of its trade-mark until the public becomes familiar with it, as well also as the character of the business transacted. We prefer a large advertisement for a

short time than a small one for a longer period. For example, a seven-inch advertisement inserted once will attract the attention of more people than one inch inserted seven times."

Sixth. After having investigated the dry goods trade, the reporter turned his attention to real estate. Dunlap Smith said: "Daily newspapers are the great medium for real estate dealers. Next in value we find cards and hangers in street, steam and railway lines leading to the property."

Seventh. Snow & Dickinson said: "The real estate business, so far as advertising is concerned, differs from other pursuits. To have a general advertisement printed does not pay. People say, 'Here's a firm that advertises, but has nothing to offer.' We must advertise some specialty; then it pays."

Eighth. O. S. Pratt, advertising agent for S. E. Gross, said: "We rely to a great extent on bills and circulars. Our department for distributing these is arranged very systematically and the clerks in it are busy all the time. If an advertisement is to be worth anything it must be made attractive. Illustrations please the eye, while reading matter entertains the mind. We do not care for matter that others use. One of the secrets of successful advertising is originality."

Ninth. W. A. Merigold said; "The best means of advertising depends on the class of property to be sold. If general business and residence property is offered, newspaper advertising is the best mode of disposition. On subdivision we use all manner of circulars and printed matter, distributing it in the territory adjacent to the property to be sold. We give free rides to the property, and send out blotters, calendars and pocket books bearing our advertisement."

Tenth. R. C. Givens, of E. A. Cummings & Co., said: "We have sold thousands of lots from the large pictures which we display in front of our office. People stop and study the plot, and then come in and buy."

Eleventh. The reporter next called upon the clothing mer-

chants. The manager of the Putnam Clothing House said: "The only thing I have any faith in is newspaper advertising, making it fresh and attractive every day, particularly in papers that have a known circulation. The best advertisement you can have, however, is a good day's sale. It is sure to be followed by another, because those who buy go home and talk about their purchase, and the next day their friends come and buy. I do not believe in standing advertisements at all. The matter should be constantly changed. I do not believe in giving away anything, and posters, bills and programmes have proved of no value in our business."

Twelfth. The manager of Browning, King & Co. said: "Whenever I have specialties I always use the daily papers and advertise them, because so many people are reached in that way."

Thirteenth. J. W. Tuttle, of the Parisian Suit Company said: "I believe in newspaper advertising as against any and every other kind of advertising. It does any business good."

Fourteenth. F. M. Atwood said: "Mere notoriety of name, does not attract people. Everybody may know John Smith's name and yet be ignorant of how he conducts his business. It is the favorable reputation of the goods that is the most effective kind of advertising."

Fifteenth. The next trade investigated was the furniture business. J. F. Revell, vice-president of Alexander H. Revell & Co., said: "When you have a bargain let the people know it. That has been our policy for years; we have been very successful. We have tried wall advertising and other forms, but nothing pays like the Sunday papers. We have tried programmes, but have discontinued using them."

Sixteenth. The president of the Tobey Furniture Company said: "We restrict our advertising to the daily papers. We have made up our minds that this is the most profitable for us."

Seventeenth. Leaving the furniture trade the reporter called

upon various prominent merchants in a number of different lines. The manager of N. K. Fairbanks & Co., said: "We use every method of advertising and are satisfied that it pays to advertise, but what particular form of advertising brings the best returns it is difficult to judge."

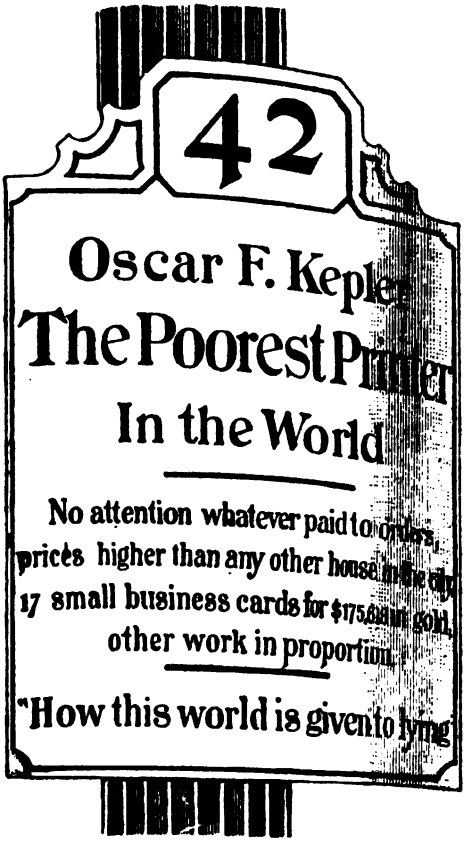
Eighteenth. Wallace Kirk, of James S. Kirk & Co., said: "We have tried all kinds of advertising in past years, and have come to the conclusion that the newspapers yield the best returns. Advertising may bring business slowly at first, but if it is continued steadily it pays."

Nineteenth. Charles H. Slack, a grocer, said: "I keep men busy all the time arranging stock in the store and outside so as to attract the eye and tempt the palate. That in itself is a powerful advertisement and we draw our customers principally through advertisements in the newspapers."

Twentieth. Lyon & Potter, music dealers are quoted as follows: "The main idea is to familiarize the public with your name and identify it with the articles you have for sale. We believe in telling the people the facts. We use theater, concert and entertainment programmes to advertise our business, because they reach a musical class. We use the country papers to a moderate extent. We have used one of the magazines, introducing a vocalion organ and have had prompt letters from all over the country and also from Europe, inquiring about and ordering that particular instrument. It is hard to compute or ascertain the direct results of advertising. The only question is what is the most judicious method, and it is a hard conundrum to tell how much to do and what not to do."

§ 559. **The Satirical in Advertising.** Examples of the satirical and burlesque in advertising are to be seen almost daily. Whether this kind of advertising pays depends very largely upon the personality of the advertiser and the line of business to be advertised. We give herewith a sample of this class of advertising. There used to be a characteristic sign hanging outside of 42 Duane street, New York, which attracted

marked attention from passers-by, on account of its peculiar statement. This sign was displayed until a short time ago when it mysteriously disappeared, and, though it has been extensively advertised and liberal rewards offered, it has not been returned. It hung for twenty-five years at the foot of the stairs leading up to Mr. Kepler's printing office:


42
Oscar F. Kepler
The Poorest Printer
In the World
No attention whatever paid to orders,
prices higher than any other house in the city
17 small business cards for $1.75 cash or gold,
other work in proportion.
"How this world is given to lying

Mr. Kepler once issued a circular or business card, which indicates that he believes in this kind of advertising. It was as follows:

[Established 4 hours, 3 minutes, 2⅝ seconds (Greenwich time) before breakfast next Saturday.]

KEPLER,

Poorest Printer in the World.

42 Duane Street, New York.

No attention whatever paid to orders; work guaranteed poorer and prices higher than any other house in the world; 17 small cards, 5 billheads, 2 circulars and 6 envelopes for $175,618 in gold; smaller orders in proportion. All work executed sometime during the next century and perfect dissatisfaction given.

Refer, by permission, to Queen Victoria, Mary Ann Johnson, King William, Johnny Shine, the Czar of Russia, Bill Smith and all the crowned heads of the Old World, washer-women, boot blacks and gentlemen of America.

We make a specialty of printing owls in black ink on common paper, and flatter ourselves we are good at that. Having recently added two square inches to our heretofore limited establishment, at an increased outlay of ten cents per annum, we are now enabled to produce these wise and indispensable birds in a manner never accomplished before. For specimen, see other side.

"How this world is given to lying."

§ 560. **Show Window Advertising.** There is some dispute among advertising experts concerning what the window show should be in front of a store. Some think that anything which is really novel and attractive will tend to draw people inside; while others claim that the better plan of advertising is for the merchant to stick to his business text and display nothing which does not directly represent what the dealer has to sell. For instance, you may put a live fox and its litter of young foxes in the window of a fur store, the party of the second part would say; but, in a store for the sale of clothes-pins

exclusively, it would be better to build up a wooden fox out of the clothes-pins themselves.

This contestant thinks, therefore, that it is not safe to let a possible customer forget for a moment what it is you wish to tell him; while the party of the first part believes that any striking feature or tableau that compels people to pause and look in the door or window will bring up the subject of the dealer's business indirectly with quite as much effect. The show of the goods themselves seems certainly to have the lead in practice—partly because it is the easiest thing to do, and almost always has been done. Where the goods are not enticing, from the very nature of them, but *must* be purchased, the display is not omitted any more than where they suggest beauty.

It has always been a matter of wonder to me, though, that the undertaker displays his goods in the window and front of his store. But he does—just as much as if the passers-by were anxious to be his customers. It would seem as if here was one instance, at least, where the display of goods themselves might be dispensed with to advantage; and (a sufficient sign being given to determine the nature of the store) the front space could be used as an attractive reception room, where flowers and things artistic might abound. You cannot, of course, put out of sight always the inevitable necessities which the trade is organized to supply; but it would seem as if they might be somewhat less paraded. A softening of the fact of death, by making the ante-chamber leading to its furniture and symbols in a measure disassociated from them, ought really, I should say, to be a benefit.

There are other branches of business which display their goods profusely, and without fail, who certainly suffer by it in one respect. And these are the green grocer and provision man. Fish and clams and meat and garden stuffs are never exposed in hot summer days, or for the most of the year, without injury. And yet I never saw a green grocer or fish dealer

or butcher who would think it possible to continue his business if he did not put on the sidewalk, in front of his store, a most bountiful supply of the most perishable goods imaginable. You see the same samples there day after day, greatly to their detriment; and, of course, they are the best the store affords, or they would not be on show. Two things result from this: Either they are sold to the customer's disadvantage, finally, or they are ultimately thrown away, after having served their advertising purpose.

How would it do for a green grocer or fish-monger to say to his customers: "I don't want to lose the value of my best stock by using it for sign purposes; and you don't want to buy it half stale, after it has been so employed. I purpose, hereafter, to keep all my goods in a cool place inside, and you shall know what they are by significant placards and transformation pictures in front?" Would not such a grocer or provisioner gain by this plan, or would he lose enough custom to more than counterbalance the assured economies attained? It would be interesting to get some experienced opinion on this point, which one who has been in either of these businesses must certainly have.

Speaking of signs and shows in front generally there is no doubt that any good devices or novelties which attract do good, and cannot ordinarily be skipped. But each business and each particular dealer will follow his own intuition on the subject, rather than obey a hard and fast literal rule. At the same time, it seems as if some businesses get along by newspaper advertising alone. It is true, I believe, that A. T. Stewart, for the whole noted period of his life, if not from the very commencement of his business career, never used show windows. His windows were always close curtained, which kept the light from injuring his goods. If you wished to know what he sold you had to go deliberately to the inside of the store. If you did not know where the store was, you were

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obliged to inquire, as he put out—so far as I remember—no outward sign.

The store windows that people are surest to stop in front of, according to my observations, are those in which some marionettes or dancing figures are to be seen. No matter how simple they are a crowd is almost always before them. But I do not think one per cent. of that crowd ever goes in the store, that they stand before, to trade; counting solely those who go in through the agency and invitation of the dancing images.[c]

§ 561. **Advertising Agencies—Placing Advertisements.** *First.* Whenever a man decides to commence upon a course of advertising, the question arises, how shall he manage the matter of placing the advertisement with the different periodicals that he elects to use? Shall an advertising agency be employed, shall estimates be obtained of the cost of a card in a certain number of periodicals, and shall labor be saved by giving the order in a lump and paying the bills in a lump, or shall the advertising have the individual attention of the proprietor, and shall he come into immediate contact with the people in the direction of the several periodicals in which he proposes to advertise? These are pertinent questions, and they are of importance to advertisers in general.

Second. The great argument of the advertising agencies is that they save the business public time and money. They undertake to save time by attending to the details of orders for advertisements, checking the publications and paying the bills. They claim to save money by quoting a lower lump price than the aggregate of the figures that would be made to the individual advertiser should he inquire the rates of all the different papers. This, as we understand it, is what the agencies claim, and about all that they claim. The question then arises, is there enough advantage in this to warrant an agency being employed, in view of the loss of the advantages which

[c] Joel Benton, in Printer's Ink, Aug. 24, 1892.

follow from direct contact with the proprietor, editor and advertising solicitor of each individual periodical, all of whom are eager to extend courtesies? This is a question for the consideration of every business man.

Third. With all due respect to the advertising agencies, and with a full knowledge of the fact that their services are indispensable in some lines of business and in numerous instances, we still think that the advantages, in small establishments, particularly, which follow from personal contact, are not to be gain-said. Accordingly in those cases where we have the opportunity to give advice we urge the advertiser to keep his business in his own hands.

With many men, advertising, at best, is a blind pool. But it should not be a blind pool any longer than it requires for practical experience to point out the correct method. Advertising is a blind pool only because of the poor and inadequate methods that are current in its management. It ceases to be a blind pool whenever the advertising done is restricted to the amount that can be intelligently supervised. After the methods are learned, after practice has been acquired, and the advertising manager knows of himself just what he wants to do, is the time and opportunity for extending the field and calling to his assistance the agencies and doing the business upon a larger scale.

We advise, therefore, at the out-set that advertisers come in contact with the publisher, editor and solicitor as often as possible. Do this by correspondence if you cannot do it by personal calls. You will find that it will help you in a way that no advertising agency will help you, no matter how great the advantages of the agency may be in other directions.[d]

§ 562. **Methods of Advertising.** Here are a few ideas on advertising which are at least different from most of what is published on that subject, and may perhaps lead one or two readers to new thought.

[d] The Office, March, 1891.

Two very successful men and large advertisers may, in my opinion, be said never to have used a "joking" or a "gingerbread," flaring style in advertising. I refer to A. T. Stewart and P. T. Barnum. In no advertisement or circular of A. T. Stewart did I ever see anything but the most serious setting forth of his claims, no criticising of rivals, no large type, no full pages, no tinsel, everything as business-like as the language a salesman would use with his most dignified or "touchy" customer.

As to Barnum you do not find him indulging in any light, discursive talk in print. The language of his advertisements may be exaggerated, but they are always to the point. He always has something to say, and he says it, says it in an inspiring way; that is, in a way to inspire belief and a wish to see what he has. Read his next advertisement and see if you don't want to go to the show.

In my writing of advertisements I always keep before me the fact that it is to cost so much a line, and every word counts and must be made to tell. I think if some advertisers would go over their advertisements as one does over a telegram they would find ways to condense without loss of effect. I like to see an advertisement plain and legible. I do not think much trade is gained from puzzles. Make an advertisement so that it can be read at a glance, unconsciously and involuntarily. It ought to be in type large enough for people who use spectacles, unless the advertiser thinks he does not want such people to read his advertisement.*

§ 563. **About Writing and Displaying Advertisements.** It is as important that an advertisement should be attractively displayed as that it should be well written. The effectiveness of a well written advertisement is greatly augmented by its being set in such a manner as to attract the eye.

Before writing your advertisement a good plan would be to study upon the technical terms of printing and familiarize

* Business, May, 1892.

yourself with the different styles of type. Most printing offices have a book of samples of the type they have, and these will aid you very materially in selecting the style of type to be used and in marking your copy correctly.

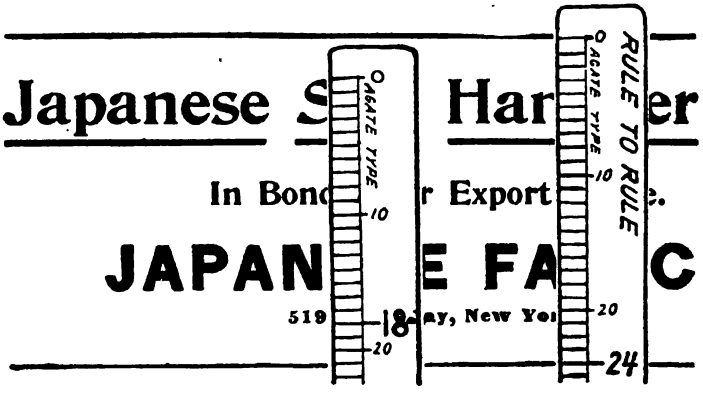
If you wish a row of fists or stars mark your copy, designating which.

If you desire a border mark your copy stating what style.

Mark your copy exactly as you wish it. If you desire it indented, state how many ems each side and whether you wish it solid, single leaded, double leaded, triple leaded or slugged.

§ 564. **Measuring Advertisements.** Different papers have different methods—because the advertisers do not object, perhaps—for measuring advertisements. Advertisements are usually charged at so much per line, agate or nonpareil, as the case may be. Borders, changes, etc., are generally charged extra. The charges are so much a line whether displayed or not—one inch measuring so many lines of type.

Now. I believe that an advertisement should be measured and charged for the actual space occupied by the type matter —except, of course, where white space is ordered above or below. About nine-tenths of the publications in the United States charge for actual space, the other one-tenth insist upon a measure between advertising rules.



The plea advanced by publishers who think rule to rule measure is the proper standard can be briefly shown unsound. They say they must get so much a column for advertising, irrespective of size or number of advertisements. Let us see. In large dailies different rates are charged for advertisements classed as amusement, display, wants, etc. Say a column contains 280 lines, and seventy advertisers each order a four-line want advertisement—will the column hold them all? Of course not. The rules between these four liners would amount to at least thirty lines—a dead loss to the publisher. No matter whether a publisher measures between rules, I have yet to hear of an instance where a want advertisement of four or more lines was charged for more than the actual number of lines.

Another reason why advertisements should all be measured for space occupied by type matter, is that some uniform system is better for all concerned, then there will be little or no opportunity for unprincipled middle men or agents securing business from ignorant advertisers except on their merits.

The story is told where advertisers have secured bids from various agencies for a given service, and after awarding the business to the lowest price concern, found that their electrotypes have had enough dashes or surplus space cut out to allow the tricky bidder two lines or more, which, at the rate charged by the *Youth's Companion*, would be $4 a line, gross. The blank space at top and bottom, which few papers charge for, thus became an accessory before the fact—unconsciously, of course—as not one advertiser in a thousand ever thinks of measuring other than between rules, and two agate lines would be made up by the top and bottom space mentioned.

Who will dispute the justice of paying for actual space occupied by advertisement! [f]

§ 565. **Negatives for Advertisers.** *First.* Do not advertise your competitor by even so much as mentioning his goods. Show up the merits of your own, and let him take care of his.

[f] G. N. Powell, in Printer's Ink, Sept. 7 1892.

Second. Do not advertise until you have a well-thought-out plan, and then stick to the plan.

Third. The great aim should be to get the greatest amount of *effect* for the least money. An advertisement without effect, though it may cost less, is too dear to pay.

Fourth. Do not try to trip any one into reading your advertisement by starting out with a funny story. People do not like to be tricked—they are not pleased, and your money is thrown away.

Fifth. Do not try to make a customer, who has favored you with his patronage, an unwilling advertiser of your goods by putting your advertisement on the paper with which you wrap his goods. The lady was right who said, "Please turn that paper over." Do your advertising in the newspapers, it pays best anyway.

Sixth. Do not keep one advertisement running until everybody is tired of it. Change frequently. People like a change.

Seventh. There should be a point to every advertisement State your point and stop. Do not keep on just to fill the space.

Eighth. Do not crowd a whole continued story, set in small type, in a two or three inch one column space, and then imagine that you are advertising. Such advertisements do not advertise.

Ninth. Do not fill your space in the paper by such nonsense as, "Look in this space next week," or "This space is reserved for John Kasnooks."

Tenth. Do not advertise one time and then stop. "Keeping everlastingly at it brings success." Advertisements placed last year will not bring in orders today, no more than the quinine which you took last year will break up the ague which shook you last night.

Eleventh. Have your advertisement worded and displayed so that the first line attracts attention. People are not hunt-

ing your advertisement in order to read it. You must angle for them.

Twelfth. Do not stop advertising as soon as trade gets dull. Keep your business before the people. They may not want your wares today, but they may tomorrow or the next day.

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